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Supreme Court, U.S.
FILED

No.

08-285 AUG 21 2008

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UNITED STATES SUPREME COURT

In re:

T. CARLTON RICHARDSON

Petitioner

PETITION FOR WRIT OF MANDAMUS AND APPENDIX

T. CARLTON RICHARDSON
Petitioner *Pro Se*
1505 Pennsylvania Avenue, SE
Washington, DC 20003-3117
202/546-3505

A. QUESTIONS PRESENTED

1.

Whether a Writ of Mandamus should be issued to the D.C. Federal Courts (District and Court of Appeals) to compel them (a) to exercise subject matter jurisdiction that they claimed they lacked under the *Rooker-Feldman*[1] doctrine in light of *Exxon Mobil,*[2] (b) to decide whether Full Faith and Credit[3] should be accorded D.C. Court of Appeals' disciplinary judgments, and (c) to examine each and every claim raised by the petitioner in his complaint and determine whether any of the claims grounded in constitutional and common law torts, and civil rights violations are viable or provide sufficient grounds for issuance of an extraordinary writ of *Coram Nobis*?

2.

Whether the Supreme Court can give Full Faith and Credit to the D.C. federal court proceedings and decisions underlying these mandamus proceedings, both on the district and appellate levels, since the courts in those civil proceedings lacked jurisdiction because their decisions were rendered in violation of the petitioner's procedural and substantive rights under the Due Process Clause (5th Amendment, U. S. Constitution) and therefore are void and unenforceable *per se* in these mandamus proceedings?

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[1]*Rooker v. Fidelity Trust Co.*, U.S. 263:413, S.Ct. 44:149 (1923); *D.C. Court of Appeals v. Feldman*, U.S. 460:462, S.Ct. 103:1303 (1983)

[2]*Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, U.S. 544:280, S.Ct. 125:1517 (2005)

[3]Article IV, §1, Const; U.S.C. §28:1738

B. PARTIES

1.0 Petitioner:

T. Carlton Richardson

2.0 Respondents:

All judges, jointly and severally as their interests may appear, of (a) the *U.S. District Court for D.C.*, especially the *Hon. Richard J. Leon*, presiding judge in *Richardson v. District of Columbia et al.*, CV No. 06-01665, and the *Hon. James Robertson*, presiding judge in CA No. 99-0657 and (b) the *U.S. Court of Appeals for D.C. Circuit.*

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E. DECISIONS INVOLVED

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2. *Richardson v. D.C. Court of Appeals*, 83 F.2d 1513 (D.C. Cir., 1996)
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4. *In re Richardson*, A.2d 692:427 (D.C. 1997)
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6. Memorandum Opinion and Order (Id., 07/11/07, Leon, J.) [App. "B"]
7. Order granting Fed. R. Civ. P. 11 sanctions (Id., 09/25/07, Leon, J.) [App. "C"]
8. Order of summary affirmance (No. 07-7138, D.C. Cir., 02/13/08) [App. "D"]
9. Order denying petition for rehearing and writ of mandamus (Id., 05/20/08) [App. "E"]
10. Order granting *sua sponte* monetary sanctions totaling $4,855 consisting of a $1,500 fine plus $3,355 attorney fees and costs (CV No. 06-01665, D.C.D.C., 08/13/08, Leon, J) [App. "F"]

■ PETITION FOR WRIT OF MANDAMUS* ■

1.0 JURISDICTIONAL STATEMENT

1.1 Subject Matter

Jurisdiction of the U.S. Supreme Court lies in U.S.C. §28:1651(a), which provides that federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

1.2 Standards of Review

(a) Generally. The standard of review for issuing writ of mandamus is well-established: A writ of mandamus will not issue unless three elements coexist--(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy. As the Supreme Court has stated: "The common law writ of mandamus...is intended to provide a remedy for a plaintiff only if [the plaintiff] has exhausted all other avenues of relief and if the defendant owes [the plaintiff] a clear nondiscretionary duty".[4] Moreover, it is the petitioner who bears the burden of proof for obtaining any extraordinary writ since there is a presumption that the proceeding in question was without error.[5]

(b) Under S.Ct. Rule 20(3)(a). Whether or not to grant the writ of mandamus rests within the sound discretion of the U.S. Supreme Court. There are three factors that the Court deems important in its decisionmaking process which are present in this case: (1) it would assist the Court in the exercise of its appellate jurisdiction; (2) there are exceptional circumstances that warrant granting the writ; and (3) relief is unavailable in any other judicial form or forum.

(1) Assist in Exercise of Appellate Jurisdiction. The Supreme Court has jurisdiction to issue a writ of mandamus under the circumstances delineated in this petition. The All Writs Act, U.S.C. §28:1651(a), vests authority in the "Supreme

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* *Emphasis* supplied and citations are to the Federal Rules governing civil procedure or evidence, unless otherwise stated.

[4] *Heckler v. Ringer*, U.S. 466:602, *616*, S.Ct. 104:2013, *2022* (1984)

[5] Cf. *Moon v. United States*, U.S. App. D.C. 106:301, *303*, F.2d 272:530, *532* (1959)

Court and all courts established by Act of Congress [to] issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." Thus, the authority of the Court to issue the writ "is restricted by statute to those cases in which the writ is in aid of [appellate] jurisdiction".[6] This Court has explained that the "traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal courts has been to confine the court against which mandamus is sought to a lawful exercise of its prescribed jurisdiction".[7]

The decisions of the D.C. District and Court of Appeals conflict with decisions of the U.S. Supreme Court interpreting Federal court jurisdiction under the *Rooker-Feldman-Exxon Mobil* doctrine. That Federal courts must conform their decisions to the rulings of the U.S. Supreme Court is paramount to the maintenance of an integrated federal court system. Exercise of the Court's supervisory authority in this regard (maintaining uniformity of law within the U.S. and its possessions) requires when Federal courts directly or indirectly misapplies, misapprehends, or disregards the Court's rulings that they be compelled to comply.

Here the petitioner complains that a vested right to due process has been denied him and that the federal courts are refusing to exercise jurisdiction (subject matter generally and issuance of the extraordinary writ of *coram nobis* specifically) that exists to ameliorate the property deprivation that occurred by virtue of the due process violation. Petitioner alleges that the D.C. federal courts have failed to exercise jurisdiction where it exists since (1) the D.C. federal courts overlooked and disregarded their power to issue the extraordinary writ of *coram nobis* and (2) the *Rooker-Feldman* doctrine is inapplicable *per se* and under the 2005 *Exxon Mobil* interpretation.

Furthermore, the D.C. federal courts have failed to examine and dismiss *all* claims expressed in or reasonably implied from the allegations of the petitioner's complaint. Under these circumstances, the writ of mandamus is the

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[6] *Roche v. Evaporated Milk Ass'n*, U.S. 319:21, *25*, S.Ct. 63:938, *941* (1943)
[7] *Cheney v. U.S.,Dist. Court for D.C.*, U.S. 542:367, *380*, S.Ct. 124:2576 (2004) (quoting *Roche*, U.S. 319:*26*, S.Ct. 63:*941-942*)

appropriate, albeit the only, remedy amenable to the complaints of the petitioner that should be used in this instance to aid the Court in its exercise of this aspect of the Court's appellate jurisdiction.

(2) Warranted by Exceptional Circumstances.

A writ of mandamus is available only in exceptional cases.[8] And as a remedy only in "extraordinary situations," its use is to correct a clear abuse of discretion or usurpation of judicial power.[9] In *In re Grossmeyer,*[10] the Supreme Court also stated that a "writ of mandamus, indeed, cannot be used to perform the office of an appeal or writ of error, to review the judicial action of an inferior court".[11]

It constitutes an unconscionable dereliction of duty for a federal court not to exercise subject matter jurisdiction where it exists and not to properly adjudicate issues cognizable under the Full Faith and Credit and Due Process Clauses. It is alleged here that these federal courts failed to adjudicate every claim expressed in or reasonably raised in petitioner's complaint and allowed invalid D.C. disciplinary judgments to be given full faith and credit. And that both actions constituted the maladministration of justice.

Furthermore, it is alleged here that the D.C. federal courts on numerous occasions over a span of some 13 years (1995-2008) failed to determine whether full faith and credit should be given to D.C. disciplinary decisions (orders and judgments) where it is alleged that they were rendered in violation of the petitioner's due process rights and therefore void. Again, under such circumstances, a writ of mandamus is appropriate to compel the courts' exercise of their jurisdiction *per se* and properly adjudicate matters before them under

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[8] *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, U.S. 485:271, *289*, S.Ct. 108:1133, *1143 1144* (1988) quoting *Roche* ["an extraordinary remedy, to be reserved for extraordinary situations"]; *Allied Chemical Corp. v. Daiflon, Inc.*, U.S. 449:33, *34*, S.Ct. 101:188, *190* (1980) ["(T)he remedy of mandamus is a drastic one, to be invoked only in extraordinary situations"]; See also *Will v. United States*, U.S. 389:90, *95*, S.Ct. 88:269, *273* (1967).

[9] *In re Calmar, Inc.* , F.2d 854:461, *464* (Fed. Cir., 1988)

[10] U.S. 177:48, *49-50*, S.Ct. 20:535, *536* (1900)

[11] Id., U.S. 177:*49*, S.Ct. 20:*536*

standards established by this Court for assessment of claims in a complaint.

Finally, federal jurisdiction, whether personal or subject matter, is predicated upon the fact that the federal court accord the litigants due process of law. **Jurisdiction is automatically *revoked where the federal court denies due process of law in* its proceedings.** In other words, Federal courts have no constitutional authority to adjudicate unless the courts provide due process of law to its litigants *at all stages* of the federal court proceedings.[12] For a "court's jurisdiction at the beginning of trial may be lost in the course of the proceedings due to failure to complete the court," which occurs if the requirements of due process are "not complied with, [and] the court no longer has jurisdiction to proceed."[13] Moreover, the judgment of "a court without jurisdiction is *void*".[14]

Having failed to accord the petitioner his due process rights in the district court proceedings by deciding or refusing to exercise jurisdiction and/or deciding factual questions by judicial notice proceedings to dismiss the petitioner's complaint and to impose Fed. R. Civ. P. 11 sanctions,[15] the Supreme Court

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[12] *Johnson v. Zerbst,* 304 U.S. 458, *468*, 58 S.Ct. 1019, *1024-1025* (1938); see also,. *Wong Yan Sung v. McGrath* U.S. 339:33, *49*, S.C. 70:445, *454, mod. on other grds.*, U.S. 339:908, S.Ct. 70:564, (1950)

[13] *Johnson*

[14] Id.

[15] The D.C. district court decided factual and legal issues on unconverted Fed. R.Civ.P. motions to dismiss and for sanctions without an evidentiary hearing or even according an oral argument, except in one instance to consider imposing sanctions oral argument was entertained. This constitutes adjudication by "judicial notice" procedures. Such use of judicial notice without according a hearing to a party adversely affected by an evidentiary assumption or presumption violates that party's due process rights [Fed. Evid. R. 201(e)]. Furthermore, consideration of any facts by the district court, whether jurisdictional (such as according full faith and credit to a State court judgment under Article IV, §1 of the Constitution and U.S.C. §28:1738) or related to the merits of the action (such determining whether preclusion should be allowed generally or specifically under the *Rooker-Feldman* doctrine), constitutes an impermissible use of its judicial notice authority under the Federal Rules of Evidence. Under Evid. R. 201(e), a party adversely affected by a fact to be or that has been judicially noticed must be accorded a hearing *prior to* the court's taking notice or upon request thereafter. ■ There is also a 5th Amendment constitutional right to be heard when a court is going to take judicial notice [*Garner v. Louisiana,* 368 U.S.

cannot give Full Faith and Credit to the federal court proceedings underlying these mandamus proceedings without the Court itself violating the petitioner's due process rights.[16]

(3) Relief Unavailable in Any Other Form or Forum. As an evidentiary matter by Supreme Court Rule and case law, the petitioner carries the burden of demonstrating that the petitioner "lacks adequate alternative means to obtain the relief sought".[17] Petitioner Richardson contends that his due process rights are being flouted by the D.C. federal district and appellate courts who have consistently denied him his right to be heard in prosecution of his claims against D.C. bar officials and prosecutors for tortuous, illegal, criminal and unethical conduct relating to the wrongful deprivation of his license to practice law in the District of Columbia commencing in 1995 to date.

Moreover, these courts have used improper judicial notice procedures to make adverse adjudications on grounds of lack of jurisdiction, and to impose F.R.Civ.P. 11 monetary sanctions to date in the amount of $4,855 (Forty-Eight Hundred Fifty-Five Dollars) [App. "F"] for alleged litigation abuse, although the recent 2005 U.S. Supreme Court unanimous decision in *Exxon Mobil* has vindicated his right to be heard on his claims arising out the wrongful deprivation of his license to practice law in the District of Columbia by bar officials and

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157, 82 S.Ct. 248 (1961)]. In *Garner*, Chief Justice Warren writing for a unanimous Court (Justice Frankfurter concurring in the judgment) stated: "To ... allow the prosecution to do through argument ... what it is required by due process to do at the trial, ... would be "to turn the doctrine [of judicial notice] into a *pretext for dispensing with a trial*". ... Furthermore, unless an accused is informed at the trial of the facts of which the court is taking judicial notice, not only does he not know upon what evidence he is being convicted, but, in addition, he is *deprived of any opportunity to challenge the deductions drawn* from such notice *or to dispute the notoriety or truth of the facts allegedly relied upon*. Moreover, there is no way by which an appellate court may review the facts and law of a case and intelligently decide whether the findings of the lower court are supported by the evidence where the evidence is unknown. Such an assumption would be a *denial of due process*" [Id., U.S. 368:*173*, S.Ct. 82:*256-257* (Internal quotations omitted)].

[16] Cf. *World-Wide Volkswagen Corp. v. Woodson*, U.S. 444:286, *291*, S.Ct. 100:559, *564* (1980)

[17] *In re Regents of Univ. of Calif.*, F.3d 101:1386, *1387* (Fed. Cir., 1996); *Heckler; Mallard v. U.S. Dist. Court, S.D.Ia.*, U.S. 490:296, *309*, S.Ct. 109:1814, *1822* (1989)

prosecutors. Other than the U.S. Supreme Court, no other judicial body has supervisory authority over the U.S. district and appeals courts to superintend their judicial functioning, to and including, modifying their decisions and conforming conduct.

(i) ***In the D.C. Court of Appeals***: Relief has been requested and denied in the D.C. Court of Appeals (DCCA), which has exclusive jurisdiction over the practice of law in the District of Columbia, legislative, executive and judicial.[18] The DCCA has expressly found that petitioner is not entitled to notice and an evidentiary hearing prior to or shortly after interim suspension of petitioner's license to practice law in June 1995, which continues to date (some 13 years).[19] Thus, the DCCA has a vested interest in preserving the *status quo ante*.

Furthermore, the DCCA denied a 2003 petition for writ of *coram nobis*[20] based upon petitioner's discovery during his 2001-2005 reinstatement proceedings (1) that D.C. Bar Counsel (a) denied petitioner's investigatory due process rights to notice of a 1992 "undocketed" *quasi*-criminal reciprocal disciplinary[21] investigation based upon a complaint by petitioner's Florida client concerning the same misconduct in part (charging an unreasonable fee) that precipitated the petitioner's 1995/1996 interim and 1997 final suspension under a 1994 "docketed" reciprocal disciplinary investigation based upon a complaint by D.C. Bar Counsel himself, and (b) failed to disclose and concealed material evidence of the 1992 "undocketed" investigation and the participation by an unidentified 'contact' person on DCCA's Board of Professional Responsibility ('Board') which oversees the prosecutorial functions of D.C. Bar Counsel, such prosecutorial conduct constituting obstruction of justice and fraud upon the D.C. and federal courts. Moreover, (2) that the Board failed to order

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[18] D.C. Code §11-2501 et al (2001 ed.)

[19] *In re Richardson*, A.2d 692:427 (D.C. 1997)

[20] See discussion of legal principles governing grant of a writ of *coram nobis* § 8.5 *infra*.

[21] *In re Ruffalo*, U.S. 390:544, *551*, S.Ct. 88:1222, *1226* (1968). Bar disciplinary proceedings being in the nature of civil forfeiture proceedings are *quasi*-criminal and thus an accused attorney in such proceedings has constitutional due process (5th and 14th Amds.) and fair trial procedure protections (e.g. 4th, 6th and 8th Amds.) very similar to those of a criminal defendant.

access to the investigatory records of the 1992 undisclosed and "undocketed" disciplinary investigation and disclosure of the identify of the Board's contact member involved in the 1992 undisclosed and "undocketed" disciplinary investigation's merger with the 1994 disclosed and "docketed" disciplinary investigation. That conduct also constituted obstruction of justice and fraud upon the D.C. court in disciplinary proceedings and the federal courts in related and/or collateral civil actions of which there were many [see App. "A", Complaint for further details].

(ii) ***In the D.C. Federal Courts:*** From the inception of the petitioner's denial of his due process rights to notice and an evidentiary hearing prior to or shortly after his interim suspension in 1995 to date, the petitioner has sought relief in the D.C. Federal courts for reinstatement of this wrongfully deprived law license, and for violations of his civil rights arising out of the improper license revocation (or property deprivation). The Federal district and circuit appeals court cases are as follows:

#-Yr	Case Name	Citation
01:1995	*In re Richardson*	No. 95-5241, 1995 U.S. App. LEXIS 28667, 1995 WL 551108 (D.C. Cir., 08/10/1995) [*Per curiam* denial of petition for writ of mandamus]
02:1996	*Richardson v. D.C. Court of Appeals*	No. 95-cv-1272 (D.D.C., 08/01/1995, Hogan, J.), *aff'd* F.3d 83:1512 (D.C. Cir., 1996)
03:1995	*In re Richardson*	No. 95-8519 (D.C. Cir. 12/29/1995)
04:1997	*Richardson v. D.C. Bar Ass'n*	No. 96-cv-2286 (D.D.C., 01/13/1997), *aff'd* No. 97-7051, 1997 WL 404321 (D.C. Cir., 06/30/1997)
05:1997	*Richardson v. D.C. Court of Appeals*	F.Supp. 962:1 (D.D.C 1997), *aff'd* No. 97-7085, 1997 WL 811754 (D.C. Cir.,

		12/09/1997)
06:1998	*Richardson v. D.C. Court of Appeals*	No. 97-cv-1594 (D.D.C., 07/17/1997), *aff'd* F.3d 172:920 (D.C. Cir. 1998)
07:2002	*Richardson v. D.C. Court Servs. & Offender Supervision Agency*	No. 99-657 (D.D.C., 07/11/2001), *aff'd* No. 01-7135, 2002 WL 335519 (D.C. Cir., 01/10/2002)
08:2004	*Richardson v. D.C. Court of Appeals*	No. 04-cv-00101 (D.D.C., 03/31/2004)
09:2005	*Richardson v. District of Columbia*	No. 05-00210 (D.D.C., 03/30/2005, *aff'd* No. 05-7078 (D.C. Cir., 11/02/2005)
10:2007	*Richardson v. District of Columbia*	No. 06-cv-01665 [D.D.C., 07/11/2007 (dismissal); 09/25/2007 (Rule 11 sanctions imposed)
11:2008	*Richardson v. District of Columbia*	No. 07-7138 (D.C. Cir., 02/13/08) [Order granting partial summary affirmance], (D.C. Cir.05/20/08) [Order denying petition for en banc rehearing or for a writ of mandamus]

For various reasons, the Federal courts have refused to exercise jurisdiction based upon abstention (see App. "G") and a misapplication of the *Rooker-Feldman* doctrine precluding Federal courts from appellate review-type proceedings of *valid* State (including D.C.) court judgments.[22]

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[22] What the *Rooker-Feldman* doctrine means, as stated in *In re James*, F.2d 940:46, *52* (3rd Cir., 1991)], is that, "once *validly* entered in a [State or DC] court of *competent* jurisdiction, a judgment is considered *valid* until overturned or vacated by that court or an appellate court with supervisory powers over that court's system or the U.S. Supreme Court. There appears to be *only one exception* to this hard and fast rule of federal-state comity, and it comes to play only when the state [or D.C.] proceedings are considered *a legal nullity and thus void ab initio* [*Kalb v. Feuerstein*, U.S. 308:433, *438-440*, S.Ct. 60:343, *345-347* (1940)]. A federal ... court may intervene only when state [or D.C.] proceedings are void *ab initio*; [the federal court] lacks

Petitioner has incurred imposition of monetary sanctions [totaling to date, $5,155 (Fifty One Hundred Fifty-Five Dollars)] for abusive litigation. In 2002, a fine by the D.C. Circuit Court of $300 (Three Hundred Dollars).[23] And most recently in September 2007 and August 2008, for filing another complaint (App. "A") and presenting arguments for not giving *Rooker-Feldman* preclusion or jurisdictional immunity and positing that Full Faith and Credit could not be given to DCCA disciplinary judgments having been rendered in violation of petitioner's due process rights, a monetary sanction totaling $4,855 (Forty-Eight Hundred Fifty-Five Dollars) by the D.C. District Court consisting of $1,500 (Fifteen Hundred Dollar) as fine and $3,355 (Thirty-Three Hundred Fifty-Five Dollars) for the attorney fees and costs of the sanction motion's movant [App. "C" and "F"]. On appeal, litigation restrictions and prohibitions imposed by the District Court in September 2007 were disallowed by the D.C. appeals court finding a lack of a factual predicate for such a sanction (Id. App. "D").

2.0 STATEMENT OF CASE

These proceedings for an extraordinary writ of mandamus arise out of D.C. district and appeal court proceedings in which the district court dismissed the petitioner's complaint [App. "A": Complaint; App. "B": Memorandum Opinion of dismissal] and issued a post-judgment order imposing Civ. R. 11 sanctions [App. "C" and "F"] in which the appeals court granted summary affirmance of the complaint's dismissal and imposition of monetary sanctions ($1,500 fine and undetermined attorney fees and costs), but reversing

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the power where it simply disagrees with the *result* obtained in an otherwise *valid* proceeding. The distinction between a *void* judgment and one that is *erroneously* decided is crucial: '... the latter [an erroneous judgment] is subject only to *direct* attack. A void judgment [can be attacked directly or collaterally and] ... from its inception, *[i]s a complete nullity and without legal effect*...(citations omitted)". [Id.]

[23]Sanctions were granted as part of a supplemental Order (03/25/99) of the D.C. appeals court denying a writ of habeas corpus and/or general writ in *Richardson v. D.C. Court of Appeals*, No. 97-7242 [on appeal from 97cv0584 and *aff'd* in F.3d 172:920 (D.C. Cir., 1998)].

imposition of litigation restrictions [App. "E": Order (*per curium,* 02/13/08]. The petitioner sought relief under the district court's jurisdiction pursuant to Fed. Civ. R. P. [=Civ. R.] 60(b) and *coram nobis* under U.S.C. §28:1651. However, the district court only exercised part of the court's Civ. R. 60(b)(2) ["newly discovered evidence"] jurisdiction and made no determination of whether any other part of Civ. R. 60(b) applied, specifically Civ. R. 60(b)(3) ["fraud, ... misrepresentation, or other misconduct"] or 60(b)(4) ["judgment is void"] and whether its *coram nobis* jurisdiction applied to complaint.

Jurisdictionally speaking, the appellate and district courts *did not* consider three (3) jurisdictional bases for petitioner's claims: (1) because petitioner made claims of fraud in the procurement of the collaterally attacked D.C. judgments involved in the action, jurisdiction existed under Civ. R. 60(b)(3)[24] and the inherent power of federal courts to

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[24] Civ. R. 60(b) permits a party to a civil proceeding to obtain relief from a final judgment if the judgment was obtained, among other reasons, by "fraud (whether ... denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party ..." [Id., 60(b)(3)]. If the 60(b) motion is brought more than one year after the judgment, the motion must be treated as "an independent action to relieve [the] party from [the] judgment... ." One of the bases for such an action is that the judgment was produced by a "fraud upon the court." The leading case in this area is *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, U.S. 322:238, *251* S.Ct. 64:997, *1003-1004* (1944) ["(A) judgment finally entered has (n)ever been regarded as completely immune from impeachment after the term. From the beginning there has existed along side the term rule(,) a rule of equity to the effect that under certain circumstances, one of which is *after-discovered fraud*, relief will be granted against judgments regardless of the term of their entry."]. In *Hazel-Atlas*, the Supreme Court held that the deception practiced in that case demanded the exercise of the court's equity power to vacate the judgment of the lower court to prevent a fraud on the court itself, the Court stated that "tampering with the *administration of justice* in the manner indisputably shown here involves far more than an injury to a single litigant. *It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot be complacently tolerated consistently with the good order of the society*" [Id., U.S. 322:*245-246*, S.Ct. 64:*1000-1001*]. Here petitioner alleges obstruction of justice, denial of due process, nondisclosure of evidence past and continuing, deception in concealment of evidence and the identity of bar officials involved and the investigatory (1992-1994) and adjudicatory phases (1994-2005 and continuing) of petitioner's reciprocal disciplinary proceedings in the D.C. Court of Appeals.

investigate such claims,[25] (2) under Civ. R. 60(b)(4) because the D.C. judgments were void and could not be given full faith and credit and (3) under writ of *coram nobis* principles. Those failures alone, coupled with the federal courts' failure to consider *specifically* and affirm dismissal of *each* claim stated expressly or by implication in the petitioner's complaint warrant mandamus relief.

Moreover, no evidentiary hearing was conducted in the district court and *all* fact-finding was done pursuant to judicial notice procedures, without notice or opportunity for petitioner to respond prior to or promptly after findings were made which violated constitutional (5th Amd., Due Process Clause) and Federal Rules of Evidence governing judicial notice. Mandamus relief is therefore the exclusive and appropriate remedy.

Count One of the complaint sought reopening of the petitioner's dismissed habeas corpus proceeding based upon newly discovered evidence of prosecutorial misconduct and decisionmaker bias, a conspiracy between D.C. Bar Counsel (bar prosecutors) and the D.C. Board on Professional Responsibility's 'contact' oversight member (the decisionmaker), and fraud upon the D.C. and federal courts, in order that the petitioner might receive an evidentiary hearing. It is alleged that bar prosecutors in the *quasi*-criminal reciprocal bar disciplinary proceedings[26] violated *Brady* v. *Maryland,*[27] in the nondisclosure and concealment of material evidence during the investigatory phase (1992-1994) and adjudicatory phase (interim and final license revocation, 1994-1997; reinstatement, 2001-2005) to which the petitioner was entitled.

Such prosecutorial misconduct also involved, a failure to accord investigatory due process (notice and opportunity to respond) to the petitioner during the abortive "undocketed" 1992-1994 investigation *(Richardson/Rankin)* based upon a Florida client's complaint which was merged surreptitiously with the aide of the decisionmaker, into the "docketed" 1994-

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[25] See Grounds for Writ of Mandamus, §3 *infra*. *Chambers v. NASCO, Inc.*, U.S. 501:32, *44*, S.Ct. 111:2123 (1991) [A court has inherent power to vacate its own judgment on proof that fraud has been perpetrated on the court.]

[26] *In re Ruffalo*

[27] U.S. 373:83, S.Ct. 83:1194 (1963)

1995 investigation *(Richardson/Bar Counsel)* based upon bar prosecutors' and not the Florida client's complaint; and obstruction of justice and fraud upon the D.C. Court of Appeals (DCCA) in direct and related reciprocal disciplinary proceedings and the federal courts in collateral civil actions and habeas corpus proceedings from 1995 to date.

Count Two of the complaint alleged violations of petitioner's civil rights and other constitutional and common law torts. Those torts primarily arose out of petitioner being denied due process in the *quasi*-criminal reciprocal disciplinary proceedings (e.g. nondisclosure and concealment of material evidence, improper enhancement of discipline by an additional 1-year 10-months imposed upon the 3-year suspension, disproportionality of the suspension since petitioner's license was revoked in June 1995, some 13 years to date and counting), and other prosecutorial misconduct involving obstruction of justice and violation of the 4th Amendment's prohibition against illegal searches and seizures.

Petitioner is entitled to due process in federal court proceedings, regardless of whether denominated procedural or substantive and the federal courts are obligated to provide such adjudicatory due process as a part of the exercise of their federal court subject matter jurisdiction, otherwise the proceedings are void *ab initio*.[28] In this petition for writ of mandamus , the petitioner Richardson contends that the D.C. Federal courts violated his 5th Amd. due process rights by failing to determine if the Full Faith and Credit Clause applied where it is alleged that the D.C. judgments [*viz: In re Richardson*, A.2d 692:427 (D.C. 1997) and *In re Richardson*, A.2d 759:649 (D.C. 2000)] involved were void having been rendered in violation of petitioner's due process rights and [2] if under Civ. R. 11 the district court lacked jurisdiction to render it sanctions order since the movant failed to comply with the 'safe harbor' provision of Civ. R. 11(c)(1)(A) governing service of a sanctions motion. Furthermore, [3] to compel the D.C. federal courts to determine if the petitioner's substantive due process rights were violated when the district court gave preclusive (claim and issue) affect to D.C. and federal court proceedings,

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[28] *Johnson; Wong Yan Sung*

orders and judgments, involving one or more of the defendants and petitioner rendered between 1995 and 2007 because of the lack of full faith and credit and because the *Rooker-Feldman* doctrine *per se* and as interpreted under the 2005 Supreme Court case of *Exxon Mobil* is inapplicable.[29]

Moreover, [4] the D.C. federal courts' dismissal of petitioner's complaint violated petitioner's due process rights by denying petitioner a right to be heard on his civil rights claims initially raised in 1995 [and reiterated on numerous occasions thereafter] for which the district court abstained,[30] and all subsequent claims arising out of prosecutorial misconduct in the concealment of investigatory evidence and denial of due process by bar prosecutors, as well as obstruction of justice and fraud upon the D.C. and Federal courts. **Mandamus relief is *primarily* sought (a) to perfect the petitioner's right to substantive and procedural due process in the D.C. Federal courts that have consistently denied those rights, and (b) because of such denial, the federal court proceedings that gave rise to these writ of mandamus proceedings in the**

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[29]Recently in *Exxon Mobil* the U.S. Supreme Court has expounded on the *Rooker-Feldman* doctrine, adding a third plank to its analysis and correcting some misapplications that federal courts were making. Under the *Rooker-Feldman* doctrine, lower federal courts do not have subject matter jurisdiction over claims seeking review of state court judgments [*Rooker*, U.S. 263:*415-416*; *Feldman*, U.S. 460:*482-486*, S.Ct. 103:*1314-1317*]. The doctrine requires a party seeking review of a state court judgment or presenting a claim that a State judicial proceeding has violated their constitutional rights to pursue relief through the state court system and ultimately to the Supreme Court. *Feldman* expressly excepts from the jurisdictional bar final judgments in situations where the constitutionality of a court rule is involved [*Id.*, U.S. 460:*486*, S.Ct. 203:*1316-1317*] and *Rooker* expressly requires that the State court judgment be rendered by a State court with subject matter and personal jurisdiction [*Id.*, U.S. 263:*415*, S.Ct. 44:*150*]. The Supreme Court in *Rooker* "noted preliminarily that the state court had acted *within its jurisdiction*" [*Rooker*, U.S. 263:*415*, S.Ct. 44:*150*; *Exxon Mobil Corp.*, U.S. 544:280, S.Ct. 125:*1522*].

[30] App. "G". In *England v. La. Bd. of Medical Examiners*, U.S. 375:411, *419*, S.Ct. 84:461, *466-467* (1964) the Supreme Court held that when a federal court abstains from deciding a federal constitutional issue to enable the state courts to address an antecedent state-law issue, the plaintiff has a right to return to the federal court for disposition of his federal claims. Accord: *San Remo Hotel, L.P. v. City & County of San Francisco*, U.S. 545:323, S.Ct. 125:2491 (2005).

Supreme Court lacked jurisdiction and their decisions are void and cannot be given full faith and credit in this Court.

3.0 GROUNDS FOR WRIT OF MANDAMUS

3.1 Legal Principles Involved

A writ of mandamus is a remedy made available through U.S.C.A. § 28:1651(a), which provides that federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." Mandamus may only issue "to confine an inferior court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so".[31]

In *Kerr v. U. S. District Court*,[32] the Supreme Court set forth some guidelines on writs of mandamus. For a writ of mandamus to issue, [1] the respondent must have a clear duty and the petitioner must have a beneficial interest in respondent's performance of that duty, [2] respondent must have the present ability to perform, must have failed to perform a duty or abused her/his discretion in performing the duty, and [3] petitioner must have no other plain, speedy or adequate remedy. It was observed in *Kerr* that the writ of mandamus was traditionally used by federal courts only to confine an inferior court to a lawful exercise of its jurisdiction, or to compel an inferior court to exercise its authority when it had a duty to do. It is normally issued when an officer or an authority by compulsion of statute is required to perform a duty, which despite demand in writing, has not been performed.

As an evidentiary matter, the petitioner carries the burden of demonstrating that petitioner's right to issuance of the writ is "clear and indisputable"[33] and that the petitioner "lacks adequate alternative means to obtain the relief sought."[34] As the

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[31] *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, U.S. 485:271, *289*, S.Ct. 108:1133, *1143-1144* (1988) quoting *Roche*.

[32] U.S. 426:394, S. Ct. 96:2119 (1976)

[33] *Allen Chemical Corp. v. Daiflon, Inc.* U.S. 449:33, *35*, S.Ct. 101:188, *190* (1980)

[34] *In re Regents of Univ. of Calif.*; *Mallard*

Supreme Court has stated: "The common law writ of mandamus...is intended to provide a remedy for a plaintiff only if he has exhausted all other avenues of relief and if the defendant owes him a clear nondiscretionary duty".[35]

Because a federal court has a "special obligation to 'satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review'",[36] a writ of mandamus will also issue to quash an *illegal* order. For it "is a prerogative writ, and grantable where the public justice of the State is concerned, and commands the execution of an act where *otherwise justice would be obstructed*".[37]

An illegal order is forever void. Under controlling U.S. Supreme Court decisions, orders rendered without jurisdiction, or that violated constitutional due process, are void orders, and remain void, and continue to be void even when affirmed by appellate court decisions.[38] Morever, an order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue.[39]

3.2 Summary of Grounds

Petitioner presents six (6) grounds, any one of which supports issuance by this Court of a writ of mandamus to compel the D.C. Federal district and/or appeals court to (1) adjudicate petitioner's Full Faith and Credit claim that the D.C.

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[35] *Heckler*

[36] *Bender v. Williamsport Area Sch. Dist.*, U.S. 475:534, *541*, S.Ct. 106:1326, *1331* (1986) (quoting *Mitchell v. Maurer*, U.S. 293:237, *244*, S.Ct. 55:162, *165* (1934)); *Accord: Steel Co. v. Citizens for a Better Environment*, U.S. 523:83, *94*, S.Ct. 118:1003, *1012* (1998)

[37] *Rundle v. Winemiller*, Harris & McHenry, Md. 4:276, *449* (Md., 1799)

[38] *Jordon v. Gilligan*, F.2d 500:701, *710* (6th Cir. 1974)("a void judgment is no judgment at all and is without legal effect."); *Lubben v. Selective Service System Local Bd. No. 27*, F.2d 453:645 (1st Cir. 1972) ("a court must vacate any judgment entered in *excess of its jurisdiction*."); *U.S. v. Holtzman*, F.2d 762:720 (9th Cir. 1985)

[39] See *Rose v. Himely*, Cranch 2:441, L.Ed 2:608 (1808); *Pennoyer v. Neff*, U.S. 957:14, L.Ed 24:565 (1877); *Thompson v. Whitman*, Wall 18:457, L.Ed. 21:897(1873); *Windsor v. McVeigh*, US 93:274, L.Ed 23:914 (1876); *McDonald v. Mabee*, U.S. 243:90, S.Ct. 37:343 (1917)

disciplinary judgments involved were rendered in violation of petitioner's due process rights and are therefore invalid and may be collaterally attacked not only within the District of Columbia but elsewhere; (2) adjudicate whether subject matter jurisdiction exists in light of the *Exxon Mobil* plank of the *Rooker-Feldman* doctrine; (3) adjudicate whether petitioner's complaint states sufficient grounds for issuance of the extraordinary writ of *coram nobis* (another basis for federal court subject matter jurisdiction overlooked and disregarded in the lower court proceedings); (4) adjudicate whether petitioner's claim of fraud upon the federal courts is viable, which is required independent of the merits of petitioner's cause of action; (5) adjudicate whether the District Court lacked jurisdiction to impose sanctions under Fed. R. Civ. P. 11(c)(1)(A) due to improper service of the sanctions motion; and (6) adjudicate systematically *all* claims in petitioner's complaint expressed or implied in fact.

Pursuant to U.S.C. §28:1651 ("All Writs Act") and S. Ct. R. 20(3) petitioner Richardson seeks a writ of mandamus directed toward the D.C. federal courts (District and Appeals) in order to perfect certain vested rights (under the 5th Amd. and Federal Civil Rules of Procedure and Evidence) of petitioner to due process in federal court proceedings, both on the district and appeals court levels. Petitioner is irrevocably entitled too those due process rights under the circumstances and that entitlement can be enforced solely through an extraordinary writ of mandamus [1] in order to obtain the performance of certain judicial acts or duties by these federal district and appeals courts involved for vesting purposes in the petitioner and [2] because those federal trial and appellate courts in failing to accord petitioner his vested due process rights have committed a gross abuse of discretion or manifest injustice themselves or suborned such conduct by others.

Involved here are federal district and appeals courts decisions that improperly dismissed (and granted partial summary affirmative on the dismissal of) petitioner's two-count complaint for reinstatement of a dismissed habeas corpus petition obtained by alleged "fraud upon the court" and for claims based upon torts of a common law and constitutional nature as well as civil rights violations arising out of facts prior

to and following the wrongful deprivation of petitioner Richardson's license to practice law in the District of Columbia in June 1995. Issuance of this writ to the federal courts under the circumstances of this case would insure their compliance with (or establish uniformity in interpretation and application) principles governing federal jurisdiction and claim assessment procedures.

Specifically, the federal district and appeals courts involved have consistently, between 1995 and 2008, over some 13 years in cases involving the petitioner, the D.C. Court of Appeals and members or employees of its Board on Professional Responsibility, and improperly applied the *Rooker-Feldman* doctrine in light of *Exxon Mobil*, especially the published opinion in *Richardson v. D.C. Court of Appeals,* F.3d 83:1513 (D.C. Cir., 1996), an unpublished opinion imposing sanctions for $300 (Three Hundred Dollars) in *Richardson v. DCCA,* No. 97-7242 (D.C. Cir., 03/25/1999), habeas corpus proceedings [*Richardson v. Ct. Svcs. & Offender Superv. Agency for D.C.,* No. 99-0657 (D.C.D.C. Robertson, J., 08/10/2001)] and other related district court decisions beginning in 1995, including, but not limited to: *Richardson v. DCCA,* No. 95-1272 (D.C.D.C., Hogan, J., 1996), *Richardson v. DCCA* , F.Supp. 962:1 (D.C.D.C., Sporkin, J., 1997), *Richardson v. DCCA,* No. 04-0101 (D.C.D.C., Huvelle, J., 03/31/2004), and *Richardson v. D.C.,* No. 05-0210 (D.C.D.C., Huvelle, J., 03/29/2005). (For a listing of other cases, see § 1.2(b)(3)(ii), *supra*)

3.3 Adjudicate Full Faith and Credit Claim--Were D.C. Judgments Rendered in Violation of Petitioner's Due Process Rights

Petitioner seeks the writ of mandamus in order to compel the federal courts involved to grant an evidentiary hearing to the petitioner for the purpose of considering whether petitioner's collateral attacks upon the D.C. judgments involved in this case are meritorious. Petitioner alleged that the judgments were rendered in violation of petitioner's due process rights and fraud upon the local and federal courts of the District of Columbia and therefore cannot be given 'full faith and credit'.

Where prior adjudications are implicated and challenges against those prior adjudications are made upon grounds that the adjudications are void for want of jurisdiction and due process, the federal court must *first* determine if the adjudication can be given 'full faith and credit'.[40] In *American Surety Co.*, the Supreme Court held that the "full faith and credit clause, Const. Art. 4, §1, together with the legislation pursuant thereto, *applies to judicial proceedings of a state court drawn into question in an independent proceeding in the federal court.*"[41]

This Court also held that the "principles of res judicata[42] apply to questions of jurisdiction as well as to other issues," but that it was also "true that entry of judgment without notice may be *a denial of due process even where there is jurisdiction* over the person and subject-matter"[43] and that "[d]ue process requires that there be *an opportunity to present every available defense*... ."[44] In other words, the federal courts involved here "reach[ed their] decision by *merely assuming the point in issue* or by deeming itself concluded by the fact that the [D.C.] trial court took jurisdiction" which is impermissible.[45]

Federal courts are *required* to decide whether full faith and credit applies and that duty cannot be avoided. "On every writ of error or appeal, the *first and fundamental question is that of jurisdiction*, first, of [the reviewing] court, and then of the court from which the record comes. This question the court is bound to ask and answer for itself, even

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[40] *American Surety Co. v. Baldwin*, 287 U.S. 156, *166*, 53 S.Ct. 98, *101* (1932)

[41] Id.

[42] "Res judicata" is used here to refer to principles of both issue and claim preclusion, direct or collateral. Federal courts must give to a State court judgment the same preclusive effect as would be given that judgment under the law of the State in which the judgment was rendered. [*Migra v. Warren City School Dist. Bd. of Educ* U.S. ., 465:75, *77 n. 1*, S.Ct. 104:892, *294 n.1* (1984)]. "Res judicata is not available *without adjudication*" [*Moore v. Deal*, F.Supp. 203:66, *69 n.9* (D.C., E.D.Pa., 1962) and is *inapplicable where "unfairness or inadequacy in the state procedures" is alleged* thereby preventing a "full and fair opportunity to press ... constitutional challenges" [*Montana v. U.S.*, 440 U.S. 147, *163-164*, 99 S.Ct. 970, *979* (1979)]. Such is the argument of the petitioner here.

[43] *American Surety Co.*, U.S. 287:168, S.Ct. 53:102

[44] Id.

[45] Id.

when not otherwise suggested, and without respect to the relation of the parties to it. ... The requirement that *jurisdiction be established as a threshold matter* 'spring[s] from the nature and limits of the judicial power of the United States' and *is* 'inflexible and *without exception*'. "[46]

It is the providence of the writ of mandamus to assure that a court acts within the bounds of its respective jurisdiction and if found not to have exercised jurisdiction where a court should have or to have exceeded its jurisdiction, then mandamus is the appropriate remedy. For as a general rule, the performance of an official act or duty, which necessarily involves the exercise of discretion or judgment, cannot be compelled by mandamus; however, this rule does not apply in cases where there is gross abuse of discretion, manifest injustice, or palpable excess of authority.[47] Such is the case here and mandamus should be ordered.

3.4 Adjudicate Subject Matter Jurisdiction in Light of the *Exxon Mobil* Plank of the *Rooker-Feldman* Doctrine

On no less than 15 (fifteen) occasions between 1995[a] and 2006 [some 11 (eleven) years and counting] petitioner Richardson has sought to perfect his U.S. constitutional and statutory rights in federal courts against the D.C. Court of Appeals, the regulatory authority for attorneys in the District of Columbia, and the DCCA's bar disciplinary employees, officials, or agents, for the wrongful deprivation of Richardson's license to practice law in June 1995 (some 13 years ago) and related claims arising out of that deprivation. Those occasions, including the instant district and appellate court proceedings,

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[46] *Steel Co.*

[47] Cf. *Roche*

[a] Litigation in the Federal courts began in 1995 with *Richardson v. D.C. Court of Appeals*, CA No. 95-1272 (D.C., D.C., Hogan, J.), see App. "G" where the court partially dismissed the case under the *Rooker-Feldman* doctrine and abstained from petitioner's constitutional claims for violations of his due process rights. Since then, each time the petitioner has sought recourse to the federal courts to have those constitutional claims adjudicated since 1995, the petitioner has been rebuffed with a string of jurisdictional dismissals and other sanctions. See generally the complication of most cases at §1.2(b)(3)(ii), *supra*.

can be broken down as follows: 7 (seven) in the district court and 9 (nine) in the appeals courts, 2 (two) mandamus applications and *one* habeas corpus. Moreover, those excursions resulted in recurring dismissals for lack of jurisdiction under the *Rooker-Feldman* doctrine by judges of the district court, affirmances by various panels of the D.C. Federal appeals court in unpublished and published opinions, and imposition of sanctions by a D.C. Federal district court judge [$1,500 fine *plus* $3,355 in costs and attorney fees] and imposition of sanctions by an appeals court panel [$300 fine] for litigation abuse.[49]

However, under *Exxon Mobil*, a recent interpretation of the *Rooker-Feldman* doctrine by the U.S. Supreme Court, it is now *crystal* clear that petitioner's actions were dismissed improperly on jurisdictional grounds and that Richardson is entitled to his day in the federal courts that was initially barred by abstention[50] some 13-years ago in 1996; and thereafter by dismissals on subject matter jurisdictional grounds based upon misinterpretations and misapplications of the *Rooker-Feldman* doctrine. It is therefore incumbent upon this Court **to rectify the improper dismissals by issuing a writ of mandamus directing that petitioner be accorded a hearing on his constitutional claims first raised in 1995 but abstained from;[51] and his common law, constitutional, and civil rights claims involving in large part, prosecutorial misconduct.**[52]

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[49] See, e.g., *Richardson (supra)* No. 95-1272 (1996), *Richardson v. DCCA*, F.3d 83:1512 (D.C. Cir., 1996), *Richardson v. DCCA*, F.Supp. 962:1 (D.C.D.C., 1997), *Richardson v. DCCA*, No. 97-7085 (D.C. Cir., 12/9/1997), Order on sanctions in *Richardson v. D.C. Court of Appeals (DCCA)*, No. 97-7242 (D.C. Cir., 03/25/1999), *Richardson v. Ct. Svcs. & Offender Superv. Agency for D.C.*, No. 99-0657 [D.C.D.C., Robertson, J., 01/10/2001 (habeas corpus)], *Richardson v. DCCA*, No. 04-0101 (D.C.D.C., Huvelle, J., 03/31/2004), and *Richardson v. D.C.*, No. 05-0210 (D.C.D.C., Huvelle, J., 03/29/2005)

[50] *England; San Remo Hotel, L.P.*

[51] *England*

[52] Cf. *Briggs v. Goodwin*, U.S. App. D.C. 186:179, F.2d 569:19 (DC Cir., 1977) *cert. den.* (Prosecutorial misconduct is grounds for an independent federal civil rights action)

3.5 Adjudicate Whether Petitioner's Complaint States Sufficient Grounds for Issuance of the Extraordinary Writ of *Coram Nobis*

Mandamus is sought to compel the grant of an evidentiary hearing to the petitioner for the purpose of considering whether petitioner is entitled to issuance of a writ of *coram nobis* as requested in his complaint and denied *sub silentio* by both the D.C. Federal appeals and district courts in their proceedings. A writ of *coram nobis* was sought by petitioner Richardson in order to prevent manifest injustice that would result due to a fraud upon the federal courts involved because the D. C. bar prosecutors and disciplinary officials have knowingly made false misrepresentations to the federal courts and failed to disclose, suppressed and concealed material evidence thereby committing an obstruction of justice under Federal law, a criminal and ethical offense.

Assuring the integrity of the judicial system is of utmost importance to the perception of fairness by the public and a just and free society where all are subject to the rule of law, the government and the governed. At common law in both civil and criminal courts, the writ of *coram nobis* was available and allowed without limitation time to correct errors of fact or process that affect the validity and regularity of a judgment.[53] It can also be used, like the writ of *audita quereala* to obtain relief from the effects of a conviction that may exists, i.e. the collateral consequences and penalties or civil rights violations that can result.[54]

Because it is an extraordinary remedy, the writ of *coram nobis* may not issue unless the petitioner demonstrates error amounting to a miscarriage of justice.[55] *Coram nobis* is brought in the court that entered the judgment and requires an evidentiary hearing.[56] A hearing would include consideration of

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[53] *United States v. Morgan*, U.S. 346:502, *506-507*, S.Ct. 74:247, *250* (1954)

[54] *United States v. Ayala*, F.2d 894:425 (D.C. Cir., 1990); *Morgan*, U.S. 346:*512-513*, S.Ct. 74:*253*

[55] *Douglas v. United States*, A.2d 703:1235 (DC, 1997)

[56] In order for a petitioner to prevail on a writ of *coram nobis*, each of the following requirements must be satisfied: (1) Court must be unaware of the facts or process giving rise to the petition; (2) Omitted information must be

"errors of the most fundamental character,"[57] such as: (1) obstruction of justice and nondisclosure or suppression of material evidence by prosecutors;[58] and (2) due process violations by the government whether acting "through its legislature, ... *courts*, ... executive, or *administrative* officers"[59] as the use of illegal, inadmissible or no evidence to convict,[60] a lack of fair or impartial trial procedures or tribunal,[61] or depriving the trial court of significant mitigating information.[62]

Although requested neither the D.C. Federal appeals court nor the district court considered whether such relief is available to the petitioner Richardson. No evidentiary hearing was conducted, thereby denying the Richardson his due process rights. Under such circumstances, mandamus would be the appropriate remedy since the only relief available to the petitioner to compel the appeals court and district court to exercise jurisdiction is in the Supreme Court.

3.6 Adjudicate Petitioner's Claim of Fraud Upon the Federal Courts

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such that it would have prevented the penalty or judgment; (3) Petitioner must be able to justify failure to provide information; (4) Error of fact or process must be extrinsic to the record; (5) Error must be of the most fundamental character [*Douglas*, A.2d 703:*1236*; *United States v. Hamid*, A.2d 531:628, *634*(DC, 1987)].

[57] *Morgan*, U.S. 346:*512*, S.Ct. 74:*253*

[58] Id.; *Mooney v. Holohan*, U.S. 294:103, S.Ct. 55:340 (1935) [prosecutorial deception, withholding required due process notice, suppression of evidence]; *United States v. Keogh*, F.2d 417:885 (2nd Cir., 1969) [suppression of evidence by prosecutor]; *Kiger v. United States*, F.2d 315:778 (7th Cir., 1963) [prosecutorial deception, concealment or suppression of evidence]; *Strickler v. Greene*, U.S. 527:263, S.Ct. 119:1936 (1999) [nondisclosure or suppression of evidence review standards for *Brady v. Maryland* violation]

[59] *Kiger*, 342; *Mooney*. Because the petitioner alleges violations of his due process rights by the D.C. Federal courts, a writ of *coram nobis* is also available. However, the writ of mandamus is more appropriate under these circumstances since the due process violations did not occur in this Court.

[60] *Moon*

[61] Id., 533

[62] *Hamid*

Petitioner alleged that there was fraud upon the federal courts by the D.C. bar disciplinary officials and prosecutors. A writ of mandamus is sought to compel the D.C. federal court to consider those allegations. While a federal court has inherent power to vacate its own judgment on proof that fraud has been perpetrated on the court,[63] neither the D.C. appeals or the district court in the face of allegations of fraud and obstruction of justice by D.C. Bar officials and prosecutors accorded the petitioner an evidentiary hearing on those allegations.

In the blatant misuse and abuse of 'judicial notice' procedures, the federal courts involved here denied the petitioner's constitutional[64] and statutory[65] rights to be heard. Mandamus should be granted to rectify the due process denial by the federal courts involved.

3.7 Adjudicate Lack of District Court's Jurisdiction to Impose Sanctions Under Fed. R. Civ. P. 11(c)(1)(A) Due to Improper Service of Motion

In the district court's Fed. R. Civ. P. 11 proceedings for abusive litigation sanctions against petitioner, the movant, defendant DeSilva, did not comply with the 21-day safe harbor provision, which is *jurisdictional*. Rule 11 provides, *inter alia:* "A motion for sanctions ... *shall be served* as provided by Rule 5, but shall not be filed with or presented to the court unless, within 21 days *after* service of the motion ..., the challenged paper ... is not withdrawn or appropriately corrected."

There was no service of the sanctions motion as required by Civ. R. 11(c)(1)(A) or the "safe harbor" requirement of Rule 11 and therefore the defendant DeSilva failed to comply with the prerequisites for filing such a motion with the district court. Nor in consideration of the sanctions motion did the district court make a specific finding that the prerequisites were followed by the movant. Mandamus is the appropriate remedy

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[63] *Chambers*

[64] 5th Amd., U.S. Const.; *Garner v. Louisiana*, U.S. 368:157, S.Ct. 82:248 (1961)

[65] Fed. Evid. R. 201(e). A party adversely affected by a fact to be or that has been judicially noticed must be accorded a hearing *prior to* the court's taking notice or upon request thereafter.

to compel the district court to determine whether it had jurisdiction to impose monetary sanctions in the *gross* amount of $4,855 (Forty-Eight Hundred and Fifty-Five Dollars) upon the petitioner for litigation abuse.[66]

3.8 Adjudicate *All* Claims in Petitioner's Complaint

In analyzing a motion to dismiss, federal courts will not dismiss a complaint unless it is clear there are "no set of facts" that a plaintiff could prove consistent with the pleadings that would entitle the plaintiff to relief.[67] Furthermore, all inferences of fact from the papers before the court must be against the movant and "in the light most favorable to the party opposing the motion".[68]

A plain reading of the district court's *Memorandum Opinion* [App "B"] dismissing the complaint demonstrates that 'all' claims expressly made or implied in fact from the petitioner's complaint were not adjudicated. For example, no mention is made in that *Opinion* of the petitioner's unreasonable search and seizure claim [App. "A": Compl. ¶¶27, 50-58] nor plaintiff's illegal disciplinary sanctions involving unconstitutional enhancement (5th Amd.) and disproportionality (8th Amd.) [Compl. ¶¶59-67] claims. Such a failure by the district court to apply this well settled standard of complaint review having been in existence since 1957 or over 51 (fifty-one) years is compelling rationale for the issuance of a writ of mandamus.

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[66] It should be noted that the D.C. appeals court, while approving the monetary sanction, held that the district "court's order entered September 25, 2007 that imposes a filing injunction is vacated and the case remanded because the injunction is *not supported by 'substantive findings* as to the frivolous or harassing nature of the litigant's actions'", *Richardson v. District of Columbia*, No. 07-7138 (03/13/08) (*per curiam)* [App. "E"]. No evidentiary hearing was conducted by the district court on the sanctions motion, only oral argument.

[67] *Hishon v. King & Spaulding*, U.S. 467:69, *73*, S.Ct. 104:2229, *2232-2233* (1984); *Conley v. Gibson*, U.S. 355:41, *45-46*, S.Ct. 78:99, *101-102* (1957)

[68] *United States v. Diebold, Inc.*, U.S. 369:654, *655*, S.Ct. 82:993, *994* (1962). *Anderson v. Liberty Lobby, Inc*, U.S. 477:242, *255*, S.Ct. 106:2505, *2513* (1986)

4.0 Conclusion

From the foregoing it is clear that the D.C. federal courts have so far departed from proper judicial procedures and so abused and misused their powers as to call for an exercise of the Supreme Court's supervisory authority through the issuance of a writ of mandamus. Their failure to accord petitioner due process (=adequate notice and an evidentiary hearing) caused and continues to cause petitioner to suffer material injustices and to undermine the fair and just administration of our judicial system.

At the heart -- albeit the "crown jewel" -- of our judicial system is the right to *due process of law* (U.S. Const., 14th and 5th Amd.). Due process does not guarantee a litigant a correct result, although a correct result is expected. What it does guarantee, is that the process due under the circumstances (here involving a property deprivation), will be provided by the judicial system from the commencement to the termination of the court proceedings, both trial and appellate.

A key aspect of the Supreme Court's appellate jurisdiction is to superintend the lower federal courts so as to assure that litigants are accorded due process by the federal courts themselves, for the integrity of the judicial system commands that. So important is due process in the judicial administration of justice that a federal court loses jurisdiction automatically when it fails to accord a litigant her/his due process rights thereby not only voiding the decisions made, but the proceedings themselves are void. Such is the case here, which compels this Court to grant the petitioner a writ of mandamus as respectfully requested.

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APPENDIX DOCUMENT SCHEDULE	
Doc.	***Description (--Page)***
"A"	Complaint with Appendix [A: Memorandum Order dismissing petition for writ of habeas corpus (CA Co. 99-0657, D.C.D.C., Robertson, J, 07/11/01); B: Memorandum Order denying motion to reconsider dismissal, Id., 07/31/2201) (CV No. 06-01665, D.C. D.C., 09/29/06)]--*37*
"B"	[1] Memorandum Opinion and [2] Final Judgment (Id., 07/11/07, Leon, J.)--*73/78*
"C"	Order granting Fed. R. Civ. P. 11 sanctions (Id., 09/25/07, Leon, J.)--*79*
"D"	Order of summary affirmance (No. 07-7138, D.C. Cir., 02/13/08)--*80*
"E"	Orders *per curiam* denying petitions [1] for rehearing and [2] for rehearing *en banc* and writ of mandamus (Id., 05/20/08)--*81*
"F"	Order granting *sua sponte* monetary sanctions totaling $4,855 consisting of a $1,500 fine plus $3,355 attorney fees and costs (CV No. 06-01665, D.C.D.C., 08/13/08, Leon, J)--*82*
"G"	[1] Order (08/01/95) and [2] Bench opinion (07/28/95) of dismissal and abstention (CA No. 94-1272, D.C.D.C., Hogan, J.)--*82/83*

APPENDIX "A"

U.S. District Court, D.C.	Civil Case No. 06-01665
T. Carlton Richardson, *Plaintiff*	District of Columbia, et al., *Defendants*
COMPLAINT WITH JURY DEMAND FOR POST-JUDGMENT RELIEF (COUNT #1) AND RELATED CIVIL RIGHTS VIOLATIONS (COUNT #2)--VERIFIED	Filed: 09 Sep 2006

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I. NATURE OF ACTION

1. This complaint (with jury demand as to Count #2) states various claims of the plaintiff Richardson arising of out the same law licensing relationship with the District of Columbia (DC) government under the rubrics: (1) in Count #1 for post-judgment relief seeking the reinstatement of Richardson's dismissed habeas corpus petition [*Richardson v. Courts Services and Offender Supervision Agency for D.C. and D.C. Court of Appeals*, CA No. 99-0657 (Robertson, J.)] and (2) in Count #2 for related civil rights violations.

II. PARTIES

A. PLAINTIFF

2. That the plaintiff, T. Carlton Richardson, is an Africanic [=a diasporan person descended from African slaves] citizen of the United States who resides in District of Columbia. Richardson, an attorney licensed to practice in D.C. since 1974, has had his license under revocation since June 27, 1995.

B. DEFENDANTS

3. That the defendants are the District of Columbia [DC] and its subdivisions or agents: the D.C. Court of Appeals [DCCA], the Board on Professional Responsibility of the DCCA [Board or BFR], the Office of Bar Counsel, DCCA [Bar Counsel or bar prosecutors], the D.C. Bar, DCCA [D.C. Bar], and the Courts Services and Offender Supervision Agency for D.C.; and

4. Present or former employees of defendant Bar Counsel, *viz*: Dr. Leonard H. Becker, Esq. (former Bar Counsel), Dr. Elizabeth J. Branda, Esq. (former Assistant Bar Counsel and currently the Board's Executive Attorney), Dr. Donna M. DeSilva, Esq. (former Assistant Bar Counsel), Dr. Wallace Eugene Shipp, Esq. (former Assistant Bar Counsel and

currently Bar Counsel), and Dr. Catherine L. Kello, Esq. (currently Assistant Bar Counsel). And an employee of the Continuing Legal Education (C.L.E.) division of the D.C. Bar, Lallah Shiskevish, its director.

III. COUNT #1: POST-JUDGMENT RELIEF

(REINSTATEMENT OF HABEAS CORPUS PETITION)

A. NATURE OF CLAIM

5. This Count states grounds for reinstatement of the petitioner Richardson's habeas corpus petition dismissed by the district court on July 11, 2001 (App. A--Memorandum order dismissing petition; App. B--Memorandum order denying motion to reconsider dismissal) based upon submissions of the parties and by using judicial notice procedures in its factfinding without an evidentiary hearing or oral argument.

6. Post-judgment relief is predicated upon [a] newly discovered evidence of prosecutorial misconduct involving the concealment of evidence, obstruction of justice and fraud upon the D.C. and Federal courts and [b] other grounds under the U.S. Constitution and D.C. statutes that convincingly demonstrate that the D.C. courts lacked jurisdiction and rendered void judgments in Richardson's civil and criminal contempt proceedings arising out of the improper and illegal exercise of its exclusive and limited jurisdiction over the practice of law in the District of Columbia, and [3] denied petitioner Richardson's due process rights and other fair trial procedural procedures (e.g., 4th Amendment: unreasonable search and seizure; 8th Amendment: grossly disproportionate penalties) previously overlooked by the district court in its dismissal of Richardson's petition for habeas corpus relief.

B. JURISDICTION

7. The district court's jurisdiction lies in F.R.Civ.P. 60(b) permitting the court to vacate judgments under certain enumerated circumstances (e.g. newly discovered evidence, fraud upon court, lack of jurisdiction, or "any other reason justifying relief from the operation of the judgment"), US §28:1651 allowing the court to issue on motion a writ of *coram nobis* or other extraordinary writs necessary in aid of the district court's habeas corpus jurisdiction, and U.S.C. §28:2201 allowing the court of declare and rule that there exists a justiciable controversy between the plaintiff and defendants and

to issue a declaratory judgment declaring that the habeas corpus petition proceedings be reopened and the petition reinstated.

C. STATEMENT OF CLAIM

(HABEAS CORPUS PROCEEDINGS--IN BRIEF)

8. In the dismissed habeas corpus proceedings, plaintiff Richardson challenged the procedures and result rendered in criminal contempt proceedings before a single judge of defendant DCCA in exercise of its exclusive and limited jurisdiction to govern the practice of law in the defendant District of Columbia [D.C. Code §11-2501(a)-(b)[69]].

9. On March 6, 1998, Richardson was convicted of the unauthorized practice of law in criminal contempt proceedings before a single-judge of the DCCA, sentenced to two years supervised probation, and fined.

10. Subsequently, on March 17, 1999 and September 21, 2000 Richardson petitioned the district court for habeas corpus relief. After consolidation of the petitions and upon review of the record, using judicial notice procedures without an evidentiary hearing or oral argument, the district court dismissed the petition on July 11, 2001 [App. "A"] and denied reconsideration on July 31, 2001 [App. "B"]. Appeal of the dismissal was disallowed by the U.S. Court of Appeals on January 10, 2002.

[DCCA DISCIPLINARY PROCEEDINGS: IN CHIEF (INVESTIGATORY AND ADJUDICATORY PHASES, 1992-1997); CIVIL AND CRIMINAL CONTEMPT PROCEEDINGS, 1997-1998; AND REINSTATEMENT PHASE, 2001-2003]

11. On July 25, 2001, Richardson sought reinstatement of his previously revoked law license by the DCCA. Richardson's license to practice law had been temporarily revoked in June 1995 (reaffirmed in March 1996) without *prior* notice or opportunity to be heard upon the *ex parte* executive recommendation of the defendant DCCA's Bar Counsel Becker by letter dated May 26, 1995 based upon Richardson's 1992 resignation of the Florida Bar that occurred while under

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[69] "The [DCCA] shall make such rules as it deems proper respecting the examination, qualification, and admission of persons to membership in its bar, and their censure, suspension, and expulsion. Members of the bar of the [DCCA] shall be eligible to practice in the District of Columbia courts" [Id.].

disciplinary investigation for charging an unreasonable fee to Florida clients.

12. This June 1995 temporary revocation was based upon D.C. Bar Counsel's ["bar prosecutors"] investigations opened according to its *revealed* records in *1994*. Richardson was notified by letter dated April 13, 1994 by then defendant Assistant Bar Counsel Branda and he responded to this 1994 investigation by a submission dated May 27, 1994.

14. However, Richardson never received any notice of formal charges *prior to* the June 1995 temporary revocation as required by statutes governing administrative procedures generally [D.C. Code §2-501 et. seq.] and bar disciplinary procedures specifically [Id., §§11-2502 and -2003(b)[70]] by departments and agencies of the defendant D.C. government.

15. In other words, neither charges of misconduct [i.e., resignation/charging an unreasonable fee *or* untimely filing of registration statement] were based upon written charges; nor was there provided an evidentiary hearing as required by D.C. statutes to invoke the jurisdiction of the DCCA to adjudicate complaints of misconduct and revoke a person's license to practice law, only the submissions and filings of the DCCA's Bar Counsel (*ex parte* and of record) and responses by Richardson (of record only).

16. Thus, in April 1997, the June 1995 temporary revocation (*reaffirmed* in March 1996) was finalized without notice or an evidentiary hearing by the DCCA in *In re Richardson*, 692 A.2d 417, *429* (1997). The DCCA stated, "On June 27, 1995 (the DCCA) ordered Richardson's temporary suspension, *without hearing*, pending final disposition of the proceeding." And adopted the 'reciprocal discipline' or penalty recommended by the defendant Board for Richardson's alleged misconduct without notice or opportunity to be heard either.

17. The DCCA's penalty or disciplinary sentence

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[70] "The DCCA may censure, *suspend from practice*, or expel a member of its bar for crime, misdemeanor, fraud, deceit, malpractice, *professional misconduct*, or conduct prejudicial to the administration of justice. *** [A] member of the bar *may not be* censured, *suspended*, or expelled under this chapter *until written charges, under oath, against him have been presented to the court, stating distinctly the grounds of complaint.*"

imposed upon Richardson consisted of a license revocation period of in excess of five (5) years:

- [a] three (3) years for the misconduct of resigning the Florida Bar while under investigation for charging an *unspecified* unreasonable fee to Florida clients *plus*
- [b] an enhancement of two (2) years ten (10) months already served for the misconduct of the untimely filing of a registration statement required of attorneys whose licenses are temporarily suspended under D.C. Bar R. XI, §14(f) and legislated judicially in *In re Slosberg,* 650 a.2d 1329 (DC, 1994).

18. In 2001, plaintiff Richardson commenced reinstatement proceedings before the Board. After over three (3) years of contentious adversary proceedings a hearing committee of the Board heard evidence supporting Richardson's reinstatement [bear in mind that Richardson never received an evidentiary hearing when his license was initially revoked temporarily in June 1995 (reaffirmed in March 1996) and finalized in April 1997]. In those reinstatement proceedings, Richardson discovered that investigatory evidence had been concealed and undisclosed by defendant Bar Counsel and that Richardson had been denied certain investigatory due process rights as a result of the concealment and nondisclosure, a flagrant obstruction of the administrative of justice in Richardson's reciprocal disciplinary matter as well as being unethical under the Code of Professional Conduct governing attorneys promulgated by the DCCA.

19. The discovery occurred as follows: In February 2003, defendant Assistant Bar Counsel Kello was ordered by the Board's hearing committee to produce certain investigatory records of all investigations opened regarding Richardson from *circa* 1990. After the conclusion of the reinstatement's evidentiary hearing in February 2003, certain investigatory records were produced by defendant Kello that consisted of submissions [pleadings and other litigation documents related to a civil action brought against Richardson in Florida by clients for refund of legal fees dating from 1990] by the attorney for the Florida clients (Dr. David Rankin, Esq.) who accused Richardson of charging an unreasonable fee by letter and

attached copies of litigation documents to the Office of Bar Counsel in *1992*.

20. These litigation documents were received and reviewed by defendant Assistant Bar Counsel Branda in *1992*, assigned a case docket number under the name *Richardson/Rankin*. Dr. *Rankin* being the Florida clients' attorney prosecuting a 1990 civil action against Richardson in the Florida courts. Defendant Branda, the reviewing bar prosecutor, who is currently the Board's Executive Attorney, determined that the submissions by Dr. Rankin were insufficient to warrant an investigation and *closed* the investigation *without notice* to Richardson of the submission *as required by D.C. Bar Rule 2.3.*[71]

21. Although the *1992 Richardson/Rankin* investigation was closed 'on the record' or 'undocked,' defendant Branda continued to communicate with and to obtain submissions from the Florida clients' attorney (Dr. Rankin) at least until *1994*.

22. Then in *1994*, defendant Branda surreptitiously and conspiratorially obtained the 'merger' of the closed or 'undocketed' *1992 Richardson/Rankin* investigation with the permission of the Board's oversight representative -- *whose identity is unknown* and *has never been disclosed* to plaintiff Richardson, although requested on numerous occasions--, into a newly opened *1994* investigation styled *Richardson/Bar Counsel*.

23. *Richardson/Bar Counsel* was based solely upon Richardson's *1992* resignation of the Florida Bar while under disciplinary investigation (coincidentally instigated in the Florida Bar by Dr. Rankin also) for charging an unreasonable fee to the same clients whose attorney (Dr. Rankin) had made the submissions in *Richardson/Rankin*. Richardson's Florida Bar resignation [1] was without either an admission on his part misconduct or a finding of misconduct by the Florida Supreme Court, and [2] resulted in a simultaneous dismissal of the collateral Florida Bar disciplinary investigation and an

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[71] Opening a bar disciplinary investigation is *mandatory* under Bd. R. 2.3 "[1] if it is *not unfounded on its face*; (2) *contains allegations which, if true, would constitute a violation of the Attorney's Oath* of Office *or the rules of professional responsibility* that would merit discipline; and (3) is *within the jurisdiction* of the Board."

injunction against Richardson applying for readmission to the Florida Bar within three (3) years. It should be noted that at the time Richardson resigned the Florida Bar, his law license had been under suspension *since 1990*, a fact known by defendant Branda and other bar prosecutors.

24. Shortly after the DCCA revoked Richardson's law license in June 1995 without notice and an evidentiary hearing, Richardson *un*successfully challenged the temporary suspension imposed. Richardson also challenged the March 1996 'fresh' interim suspension order brought by defendant Assistant Bar Counsel DeSilva. However, at the time of both challenges, Richardson was unaware of *Richardson/Rankin,* the 1992-1994 'undocketed' investigation, or its records and its merger into the 1994 'docketed' investigation (*Richardson/Bar Counsel).*

25. Furthermore, defendant DeSilva never reveal to the DCCA during the two temporary (1995/1996) and the final suspension reciprocal disciplinary suspension proceedings (1997), the existence of the *1992 Richardson/Rankin* (the 'undocketed' investigation), its merger with *Richardson/Bar Counsel* (the 'docketed' investigation)in *1994*, and the bar prosecutors' failure to notify Richardson of the existence of *Richardson/Rankin* and the merger proceeding.

26. Moreover, defendant DeSilva did not reveal the single judge of the DCCA that heard *civil* contempt proceedings that were brought by defendant DeSilva to compel Richardson to respond to improper executive subpoenas for answers to interrogatories and production of documents. Defendant DeSilva had issued the subpoenas *personally* based upon her own prosecutorial authority under D.C. Bar Rule XI, §18(a) without the prior approval of a judicial officer.

27. Defendant DeSilva's interrogatories/production request resulted from a review of Richardson's bank records by DeSilva, which DeSilva had obtained surreptitiously through an *executive* subpoena (i.e., without court prior authorization) to Richardson's bank. The bank account information DeSilva used for the *executive* subpoena was gleaned from a copy of Richardson's check given by him to pay for a C.L.E. course on 'Billing Ethics' and sent surreptitiously and conspiratorially to defendant Bar Counsel (then Assistant Bar Counsel) Shipp by

defendant Shiskevish, the director of the D.C. Bar's C.L.E. Office.

28. Additionally, defendant Assistant Bar Counsel DeSilva never revealed that the 1992-1994 'undocketed' and merged investigation *Richardson/Rankin* existed to the single-judge of the DCCA that heard a subsequent 1998 *criminal* contempt proceedings, the progeny of Richardson's 1999 habeas corpus proceedings. The criminal contempt proceedings were also based upon the 'fruits' of the evidence produced by Richardson in the civil contempt proceedings that preceded the criminal contempt proceedings.

29. To recap, the evidence [i.e., the 1992-1994 'undocketed' and merged investigation that spawned *Richardson/Rankin*] was never disclosed in *any* civil proceedings — beginning in 1995 to date and spanning over 11 years of adversary proceedings in Federal courts -- brought by Richardson against the DCCA and others challenging the jurisdictional validity and constitutionality of the DCCA's disciplinary and contempt judgments and orders in the district court by *any* opposing counsel in *any* of their submissions, including when the district court dismissed Richardson's habeas corpus petition.

30. Plaintiff Richardson, while receiving documentary evidence of the existence of the 1992-1994 'undocketed' and merged *Richardson/Rankin* investigation in February 2003, has *never* received copies of the remaining records in *1992 Richardson/Rankin* investigation or the name of the representative of Board who authorized and participated in the merger of the 1992-1994 'undocketed' *Richardson/Rankin* investigation with the 1994 'docketed' *Richardson/Bar Counsel* investigation that formed the basis of Richardson's 1995/1996 temporary and 1997 final license revocations. That nondisclosure continues to this date, over 11 (eleven) years later.

(PROSECUTORIAL MISCONDUCT/FRAUD UPON COURTS)

31. In related or collateral bar disciplinary, civil/criminal contempt, and Federal civil actions (habeas corpus and other civil actions) involving plaintiff Richardson, bar prosecutors (especially, defendants Branda, Becker, DeSilva and Kello) obstructed justice by concealing the existence of and failing to

disclose the records in Bar Counsel's *1992 Richardson/Rankin* investigation (and failing to accord investigatory due process rights to Richardson also) in the following particulars:

- from the Board and DCCA in bar disciplinary proceedings of the *Richardson/Rankin* investigation (B.D. No. 511-92) and merger of *Richardson/Rankin* investigation (B.D. No. 511-92) with *Richardson/Bar Counsel* investigation (B.D. No. 180-94);
- from plaintiff Richardson of the *Richardson/Rankin* investigation and merger;
- from the DCCA in related civil and criminal contempt proceedings of the *Richardson-/Rankin* investigation and merger; and
- from collateral Federal trial and appellate courts in civil actions and habeas corpus proceedings of the *Richardson/Rankin* investigation and merger.

32. D.C bar prosecutors (especially, defendants Branda, Becker, DeSilva and Kello) also failed to perform their duty to disclosure material evidence caused the following injuries to plaintiff Richardson, the Board, and/or the DCCA:

- Interfered with the discovery of impeachment evidence and prevented presentation of such evidence in interim and final stages of reciprocal discipline;
- Hindered presentation of misconduct defenses in interim and final stages of reciprocal discipline;
- Hindered presentation of the defense that the merger of the *1992 Richardson/Rankin* and the *1994 Richardson/Bar Counsel* investigations was improper, being done without notice or an opportunity to heard, in violation of Richardson's investigatory due process rights to be heard on the *1992 Richardson/Rankin* complaint; and
- Hindered presentation of defenses in collateral civil and criminal contempt proceedings.

33. Moreover, bar prosecutors committed fraud upon the courts by failing to disclose the existence of the *1992 Richardson/Rankin* investigation and in the criminal contempt proceedings committed a *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963) [i.e. nondisclosure and concealment of material evidence denies due process and is grounds to set aside

conviction and/or sentence] violation. And expressly *via* defendant Assistant Bar Counsel DeSilva who represented to the DCCA's single-judge hearing the criminal contempt against plaintiff Richardson, that bar prosecutors had no evidence to reveal. Defendant DeSilva wrote in a 1997 discovery letter to the DCCA single-judge court and plaintiff Richardson that: "*Brady Materials*: Bar Counsel is *unaware of any documents or other materials that may be considered favorable, exculpatory, and material* and therefore are required to be disclosed under *Brady v. Maryland,* 373 U.S. 83 (1963)" [*Emphasis supplied.*]

34. Furthermore, prosecution of Federal civil actions by plaintiff Richardson for violation of common law, statutory and constitutional (i.e. Federal civil rights) torts, injunctive relief and habeas corpus were interfered with or prevented. Attorneys representing the DCCA in those proceedings and/or its employees or agents failed to provide the Federal courts with the information regarding the *1992 Richardson/Rankin* investigation that would have affected the unfavorable trial court and appellate outcomes of those proceedings, which were all dismissed against Richardson on lack of Federal jurisdiction grounds.

35. In summary, Richardson failed to receive the requisite due process notice in three instances:

- when *Richardson/Rankin* investigation (B.D. No. 511-92) was processed;
- when *Richardson/Rankin* investigation (B.D. No. 511-92) was merged with *Richardson/Bar Counsel* investigation (B.D. No. 180-94); and
- when providing mandated discovery in criminal contempt proceedings, specifically in a 1997 letter from defendant DeSilva in response to discovery in the DCCA's criminal contempt proceedings referenced in ¶33 *supra.*

36. Finally, Richardson failed to receive the due process hearings guaranteed under the 5th Amendment, D.C. Code provisions governing the regulation of the practice of law [D.C. Code § 11-2503(b)] and administrative procedures [D.C. Code (2001) §2-509], and D.C. Bar rules [Bd. R. 2.3, 2.7, and 2.8; Bar R. XI, §6(a)(2)] governing the investigation of disciplinary matters in the following particulars:

- on allegations of misconduct contained in the *1992 Richardson/Rankin* complaint;
- on the allegations of jurisdictional and misconduct facts and on the omission of material information and documentation presented in bar prosecutors' *ex parte* submission to DCCA for automatic entry of the 1995 and 1996 interim suspension orders based upon Richardson's uncontested resignation of the Florida Bar;
- on allegations of misconduct contained in the statement of bar prosecutors submitted to the Board in support of a finding of misconduct and imposition of sanctions as reciprocal discipline in Florida uncontested resignation matter;
- on whether misconduct determined by Board by use of 'official notice' procedures lacked impartiality because one of its members was disqualified by virtue of having independent knowledge of the allegations of misconduct having served as the "contact member" in *1992 Richardson/Rankin* investigation and approved its merger with *1994 Richardson/Bar Counsel* investigation; and
- on whether the finding by the Board of misconduct and imposition of sanctions based solely upon hearsay evidence in the nature of unsworn statements by the complaining client's attorney (Dr. Rankin) and the Florida Bar prosecutor in his response to Richardson's petition to resign the Florida Bar were properly received in the 'official notice' proceedings.

37. In summary, bar prosecutors have obstructed justice by secretly conducting an investigation for alleged multiple violations by Richardson of the D.C. Bar Rules of Professional Conduct in violation of Board and D.C. Bar Rules resulting in

- the denial of Richardson's due process rights under those Rules,
- the concealing and destroying records of the1992-1994 *Richardson/Rankin* investigation,
- misleading through omissions, half-truths, and false statements the Board and DCCA itself resulting in deprivation of the Richardson's license to practice law without due process of law, and

- interfering with the fair consideration by the Board and DCCA by depriving them of a full and complete record of the underlying facts and relevant authority required for the fair and impartial operation of their decisionmaking judicial and *quasi*-judicial functions.

Such obstruction of justice also violated the criminal statutes governing obstructing justice in the District of Columbia, including tampering with evidence, and ethical standards of conduct for attorneys (esp. prosecutors), as well as Federal statutes on the same subject

38. Former and present members of the Office of Bar Counsel (some unknown to plaintiff Richardson at this time) have conspiratorially participated in illegal and unethical activities consisting of obstructing justice and failing to disclose evidence that constitute misconduct of the most egregious type and goes to the heart of the integrity of the bar disciplinary enforcement system, as well as the administration of justice in the local and Federal courts of the District of Columbia. Bar prosecutors' nondisclosure violated Richardson's due process rights under the 5th Amendment of the U.S. Constitution, Board Rules, and the D.C. Bar's Rules of Professional Conduct that impose special prosecutorial duties and responsibilities.

39. Specifically, bar prosecutors

- violated their duty to fully disclose its disciplinary investigatory activities to Richardson and the DCCA,
- violated Board Rules governing processing, investigating, and instituting disciplinary proceedings against Richardson, and
- knowingly presented (or omitted to present when under an legal and ethical duty to do so) false and misleading documents and made false and misleading statements in submissions to the DCCA that resulted in Richardson's license to practice of law being summarily revoked without notice or opportunity to be heard in June 1995, reaffirmed in March 1996, and finally revoked in April 1997.

40. Because the obstruction of justice and concealment or suppression of evidence that occurred in the reciprocal disciplinary proceedings as well as collateral civil and criminal contempt proceedings and Federal habeas corpus proceedings (i.e. D.C. Attorney General's Office failed to submit records

regarding the *1992 Richardson/Rankin* investigation to the Federal court), the injury to Richardson and to the administration of justice system as been so pervasive and the materiality of the undisclosed evidence so clear and convincing that the reciprocal disciplinary orders and judgment in these *quasi*-criminal reciprocal disciplinary proceedings are void having been rendered in violation of due process and cannot be given full faith and credit in any U.S. court, State or Federal. Such conduct by bar prosecutors also constitutes fraud upon the DCCA, its Board, and the Federal courts.

[LACK OF JURISDICTION/VOID JUDGMENTS: DCCA DISCIPLINARY JUDGMENTS BY 3-JUDGE COURTS INVALID--DENIAL OF DUE PROCESS (5th Amd.); DCCA CONTEMPT JUDGMENTS BY SINGLE JUDGE COURTS INVALID]

41. D.C. Code §11-2503(b), which prohibits the DCCA from suspending an attorney without filing verified charges, personal (or *in lieu* thereof substituted service for cause), and being accorded an evidentiary hearing, is the source of the DCCA's disciplinary jurisdiction and enforceable by it. Furthermore, a hearing must be provided to a party in "contested cases," after reasonable notice, in administrative hearings under the auspices of D.C. government agencies and any provision in an agency's rules of procedure that are different is "supercede[d]" [D.C. Code (2001) §§2-501; 2-509]. And because bar disciplinary proceedings are *quasi*-criminal [*In re Ruffalo*, 390 U.S. 544, 88 S.Ct. 1222 (1968)], an evidentiary hearing.

42. The fundamental requirements of due process are notice and the opportunity to be heard and administrative agencies must, as a matter of due process, provide a full, fair and complete hearing when they seek to deprive a person of her/his property. An evidentiary hearing is guaranteed under D.C. disciplinary and administrative procedure statutes [D.C. Code §§ 11-2503(b); 1-1502(8)], under numerous cases of the DCCA beginning in the late 1800s and under the 5th Amendment as interpreted by the U.S. Supreme Court in *Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729 (1975), *Bell v. Burson*, 402 U.S. 535, 542, 91 S.Ct. 1586 (1982), *Barry v. Barchi*, 433 U.S.

55, 99 S.Ct. 2942 (1979), and *Gilbert v. Homar*, 520 U.S. 924, 117 S.Ct. 1807 (1997).

43. In *In re Richardson 1997:429,* the DCCA finally revoked Richardson's license to practice law without notice or an evidentiary hearing having temporarily done so "[o]n June 27, 1995 ... ordered Richardson's temporary suspension, *without [prior notice and] hearing*, pending a final disposition of the proceedings." The June 1995 revocation was reaffirmed under identical circumstances in March 1996. By taking almost two years to finally revoke Richardson's law license, the DCCA violated Richardson's due process rights as enunciated in the U S. Supreme Court cases governing the due process rights of an accused (a) to a *prompt post-suspension hearing* where suspension lasts more than 10-days; (b) to proof by clear and convincing evidence of any disciplinary charge, element thereof, *or* sanction imposed if convicted; and (c) that prohibit conviction of an offense by judicial legislation, presumptions or judicial notice without according the accused a hearing. Thus, the *In re Richardson:1997* judgment is void and cannot be given full faith and credit by any State or Federal court having been rendered in violation of the well settled due process rights of plaintiff Richardson.

44. Federal courts have inherent authority to punish any contempt of court [D.C. Code §11-741 (The "District of Columbia Court of Appeals, *or a judge thereof*, may punish for disobedience of an order or for contempt *committed in the presence of the court.*")]. Criminal contempt cases are "cases and controversies" upon which the judicial power of the United States can act [Art. III, U.S. Const.; D.C. Code §§ 11-101(2)(A) and 11-705(b)].

45. "Cases and controversies shall be heard and determined by *divisions* of the" DCCA and "(e)ach *division* of the court shall consist of *three* judges" [D.C. Code §11-705(b) (2001ed.)]. "Cases and controversies *shall* be *heard* and *determined* by ['three-judge'] *divisions* of the [DCCA] unless a hearing or a rehearing before the [DCCA] en banc is ordered" [Id., DC Code]. Contemptuous behavior not "in the *presence* of the court" can be punished only by a 3-judge panel of the DCCA.

46. Moreover, a single-judge order cannot be binding on a three-judge division of the DCCA. And if the contemptuous conduct did not occur in front of the single-judge, any judgment of contempt by a single DCCA judge is void since only a 3-judge panel can impose contempt for contemptuous conduct under such circumstances.

47. While a three-judge panel can appoint pursuant to statutory authority a single-judge of the D.C. Superior Court to serve as a judge of the DCCA for purpose of making factfindings and legal conclusions, a three-judge panel cannot confer jurisdiction upon a single-judge court for final disposition. That power lies only in the province of a three-judge panel of the DCCA. And under such circumstances, the single-judge acts merely as a hearing officer without the authority to enter judgment on its own factfindings and legal conclusions, that is the function of the 3-judge panel of the DCCA.

48. Under D.C. statute, decisions of the DCCA must be rendered by a three-judge panel when exercising its jurisdiction to regulate the practice of law in the District of Columbia [D.C. Code §11-2501 *et al.*]. Thus, the DCCA must act in three-judge panels where an attorney accused of violating a valid subpoena during disciplinary investigations or a suspension order of the attorney's license to practice law. Where civil or criminal charges of contempt are brought before the DCCA for alleged contemptuous conduct, which by its very nature has occurred *outside the purview* of the DCCA -- i.e. not "in the presence of the court," they must be heard by a three-judge panel.

49. In Richardson's civil and criminal contempt actions, the contempt judgments were rendered by a single-judge, not a three-judge panel. Nor in either case was Richardson given an opportunity to contest the findings and conclusions *or* present argument before a DCCA three-judge panel. As such, not only was the judgments of the single-judges in Richardson's civil and contempt actions void for lack of jurisdiction, they also violated his due process right since he was given no opportunity to be heard by a three-judge panel. And three-judge panels have the *sole* authority under these circumstances [i.e., disposition of the alleged contemptuous conduct outside the presence of the court] to enter a civil or criminal contempt judgment.

[UNREASONABLE SEARCH AND SEIZURE (4TH AMD.)]

50. An illegal search and seizure claim arose in 1996 in a separate investigation based upon a bogus (and later dismissed) misconduct charge of the "misuse of entrusted (client) funds" brought and investigated by defendant Assistant Bar Counsel DeSilva.

51. In that investigation, defendant DeSilva, without prior court authorization, surreptitiously subpoenaed Richardson's bank records based upon account information on the copy of a check written by Richardson to pay for a C.L.E. course in "Billing Ethics" that defendant Bar Counsel Shipp had received surreptitiously and conspiratorially from the director of the D.C. Bar's CLE office, defendant Shiskevish.

52. Richardson's 4th Amendment illegal search and seizure claim is that the Office of D.C. Bar Counsel violated his constitutional right to fair trial procedures when it surreptitiously and conspiratorially obtained a copy of a CLE check that Richardson had written to attend a CLE course on "Billing Ethics" from the director of the D.C. Bar CLE's office, defendant Shiskevish. This was a part of Richardson's rehabilitation efforts after suspension in June 1995.

53. Information on that check was used to obtain Richardson's bank records pursuant to an *executive* (i.e., without prior judicial review) subpoena by the defendant Assistant Bar Counsel DeSilva while simultaneously investigating him for alleged trust account irregularities. Based upon deposits and cancelled checks, defendant DeSilva issued an executive (i.e. upon DeSilva's own determination of "probable cause") subpoena to plaintiff Richardson to explain those transactions.

54. Richardson refused to comply with the executive subpoena voluntarily prompting defendant DeSilva to commence civil contempt proceedings in 1997. Richardson was not informed of how defendant DeSilva obtained a copy of his CLE check nor how the information regarding certain bank transactions was obtained that formed the basis of the subpoena issued to him. Therefore, the *exchange of information* (i.e., his CLE check) between the D.C. Bar CLE office and bar prosecutors constituted an unreasonable search and seizure under the 4th Amendment.

55. In summation, Richardson's 4th Amendment claims are:

- That the sharing of information between the CLE. office of the D.C. Bar and bar prosecutors being without Richardson's consent constituted an unconstitutional search and seizure under the 4th Amendment;
- That all subpoenas issued in the trust account irregularities investigation (later dismissed) were invalid because they lacked the requisite prior review and authorization by a judicial officer for bar prosecutors in *quasi*-criminal bar disciplinary investigations and are prohibited *per se* from determining probable cause for issuing a subpoena without prior judicial review and approval; and
- That the issuance of the subpoenas for Richardson's bank records in the trust account investigation violated his investigatory due process rights under D.C. Code XI, §6(a)(2), which prohibits discovery until after an accused attorney has responded.

56. The U.S. Supreme Court ruled in *Ferguson v. City of Charleston*, 532 U.S. 67, 121 S.Ct. 1281 (2001) that information sharing between affiliated governmental agencies resulting in subpoenas being issued without prior court approval violates the 4th Amendment. It applied the general rule that an official nonconsensual search is unconstitutional if not authorized by a valid search warrant and was not establishing a new rule of constitutional interpretation. Thus, the exchange of the C.L.E. check between the D.C. Bar and the Office of Bar Counsel, both administrative subdivisions of the DCCA, violated the petitioner's 4th Amendment right to searches and seizures conducted by the government that are not "unreasonable."

57. Moreover, disciplinary investigations are subject to the strictures of the 4th Amendment that legal process sought to invade the privacy of an attorney must first be reviewed and approved by a neutral judicial officer [*United States v. U.S. District Court*, 407 U.S. 297, *317*, 92 S.Ct. 2125, *2136-2137* (1972); *In re Malvin*, 466 A.2d 1220 (D.C., 1983) (To obtain an attorney's bank records, investigative officials must use an "administrative warrant" under Civ. R. 204, D.C. Sup. Ct.); D.C. Bar R. XI, §8(b)]. In *Coolidge v. New Hampshire*, 403 U.S.

443, *454,* 94 S.Ct. 2022, *2032* (1971) *reh'g den.*, the U.S. Supreme Court established a *per se* disqualification rule regarding prosecutors' determining probable cause for issuance of a search warrant or subpoena *duces tecum*, holding: "that searches conducted outside the judicial process, without prior approval by a judge or magistrate, are *per se* unreasonable under the Fourth Amendment -- subject only to a few specifically-established and well-delineated exceptions ... [not relevant here] " [*Id.* (Internal quotes omitted)].

58. D.C. Bar subpoena procedures under D.C. Bar R. XI, §18(a)[72], permitting as it does unreviewed executive discretion in bar prosecutors, is unconstitutional under the 4th Amendment since there is no restraint imposed by a detached and neutral judicial officer.

[ILLEGAL DISCIPLINARY SANCTION -- ENHANCEMENT (5TH AMD.) AND DISPROPORTIONALITY (8th AMD)]

59. In *In re Richardson 1997*, the DCCA imposed a 3-year license revocation for Richardson's resignation of the Florida Bar while under disciplinary investigation for charging an unreasonable fee and an *enhanced* revocation period from June 1995 to April 1997 of approximately 2 years and 10 months for failing to file a registration statement required of suspended attorneys under the *In re Slosberg,* 650 A.2d 1329 (DC, 1994) rule and D.C. Bar Rule XI §14(f).

60. *Slosberg,* is a *judicial* (as opposed to *legislative*) bar disciplinary rule that allows the DCCA by official notice to enhance a suspension by the period during which an attorney under interim suspension has not complied with its registration and notice requirement under D.C. Bar R. XI, §14(f) without notice or opportunity to be heard. It is not a Bar disciplinary rule that was *legislatively* determined by the DCCA since the DCCA has limited, but *exclusive* jurisdiction over the practice of law in D.C., which is executive, legislative and judicial.

61. Because there was no notice of such a misconduct charge nor an evidentiary hearing, the imposition in *In re*

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[72] "In carrying out [D.C. Bar] rule [IX] ... Bar Counsel in matters under investigation may, subject to Superior Court Rule 45 ['Subpoena ... Every subpoena *shall be issued by the Clerk under seal of the Court*...'] compel by subpoena ... the production of pertinent books, papers, documents, and other tangible objects ..." [Id., §18(a)].

Richardson 1997 of the *enhanced* sanction pursuant to the *Slosberg* 'rule' was accomplished by judicial legislation or presumption without a hearing upon *ex parte* evidence, which is not only a constitutional due process violation, but a statutory due process violation since D.C. Code §11-2503(b) requires that "a member of the [D.C.] bar *may not be ... suspended until written charges, under oath* against him have been presented to the court ... ." And this statute is mandatory.

62. It cannot be disputed that Richardson's law license constitutes property within the meaning of the 5th Amendment, requiring that notice and hearing be afforded *before* revocation by the DCCA. Therefore, the DCCA's action in revoking Richardson's law license, temporarily and finally without notice and hearing in Richardson's case, violated his due process rights and the disciplinary orders and judgment are void being unconstitutionally rendered since the constitutional requirement of due process of law permeates every valid enactment of Congress.

63. Moreover, the DCCA's license revocation action based upon two D.C. Bar Rules, (a) D.C. Bar R. XI, §11(d)[73] allowing interim suspension without a pre- or prompt post

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[73] "*Temporary suspension and show cause order.* Upon receipt of a certified copy of an order demonstrating that an attorney subject to the disciplinary jurisdiction of [the DCCA] has bee suspended or disbarred by a disciplining court outside the District of Columbia or by another court in the District of Columbia, the [DCCA] *shall forthwith enter an order suspending the attorney form he practice of law in the District of Columbia* pending final disposition of any reciprocal disciplinary proceeding, and directing the attorney to show cause within thirty days from the date of the order why identical discipline should not be imposed. ..." But see, D.C. Bar Rule XI, §3(c), "*Temporary suspension or probation.* (1) On petition of the Board [on Professional Responsibility] by its Chairperson or Vice Chairperson, support by an affidavit showing that an attorney appears to pose a substantial threat of serious harm to the public, the [DCCA] may issue an order, with such notice as the [DCCA] may prescribe, temporarily suspending the attorney or imposing temporary conditions of probation on the attorney, or both. ... An order of temporary suspension issued under this subsection shall preclude the attorney from accepting any new cases or other legal matters, but shall not preclude the attorney from continuing to represent existing clients during the thirty-day period after issuance of the order; ***"

suspension hearing and (b) D.C. Bar R. XI, §14(f)[74] and the cases which allow imposition by *ex parte* proof and judicial notice (i.e. judicial or executive legislation) of additional discipline for failure to comply with its registration requirement [Id.] are unconstitutional on their faces or as applied.

64. Therefore, the district court cannot give 'full faith and credit' to the reciprocal disciplinary orders and judgments rendered in Richardson's situation by the DCCA because they clearly violate the due process principle that an accused attorney is not to be deprived of his property interest in his license to practice law without *some* form of hearing *before* or *promptly after* the government acts on the deprivation.

65. The 8th Amendment of the U.S. Constitution prohibits penalties that are grossly disproportionate to the offense. Thus, an accused has the Federal constitutional right not to have cruel and unusual punishment imposed, i.e. a requirement of proportionality.

66. Again, no opportunity was accorded Richardson to contest the nature of the sanction, a 3-year suspension imposed upon him for the alleged misconduct of resigning the Florida Bar while under disciplinary investigation for charging an unreasonable fee *and* a 2-year, 10-month suspension for failing to file a registration statement required of suspended and disbarred attorneys. In other words, over five and ¾ years of license revocation, which has morphed into over 11-years and counting.

67. Richardson has been without his license to practice law for over 11-years (June 27, 1995 to date) for the misconduct (as enhanced) and such a period of suspension is an egregious sanction grossly disproportionate to the misconduct and violates plaintiff Richardson's 8th Amendment right.

D. CONCLUSION AND RELIEF REQUESTED

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[74] "*Required affidavit and registration statement.* Within ten days after the effective date of an order of disbarment or suspension, the disbarred or suspended attorney shall file with the [DCCA] and the Board an affidavit [of compliance with the order of disbarment or suspension, listing jurisdictions or agencies admitted to practice, current address, and service upon Bar Counsel] *** . The court may require the attorney to submit such proof as a condition precedent to the granting of any petition for reinstatement. ***"

68. That the district court declare that one or more of the foregoing grounds [i.e. newly discovered evidence of prosecutorial misconduct involving the obstruction of justice, concealment and nondisclosure of evidence, and fraud upon D.C. and Federal courts; a lack of exclusive limited disciplinary, civil and criminal contempt jurisdiction in the DCCA because of a denial of due process; and the denial of other due process and fair trial procedures (illegal search and seizure, and imposition of grossly disproportionate penalties) are legally sufficient to reopen and reinstate plaintiff Richardson's 1999 habeas corpus proceedings [*Richardson v. Courts Services and Offender Supervision Agency for D.C. and DCCA,* CA No. 99-0657 (Robertson, J.)];

69. That the district court declare that plaintiff Richardson is entitled to an evidentiary hearing on the grounds for reinstatement of his habeas corpus petition under U.S. Supreme Court precedent [*Townsend v. Sain,* US 372:293, *312-313*, S.Ct. 83:745, *757* (1963)] and U.S.C. §28:2554(d)(2) (1994) and to determine if Richardson received a full, fair and adequate hearing before the DCCA in reciprocal disciplinary and contempt proceedings, both civil and criminal;

70. And grant such further relief as the district court deems fair and just under the circumstances

IV. COUNT #2: FEDERAL CIVIL RIGHTS AND RELATED CLAIMS

A. NATURE OF CLAIMS

71. That the plaintiff restates the allegations contained in ¶¶ 8 to 67 of Count #1 and incorporate them by this reference herein.

72. That by having engaged in the conduct described in the restated allegations, the defendants conspired among themselves and with person or persons unknown to deprive plaintiff Richardson of his due process rights and rights to equal protection of the law or of the equal privileges and immunities under law, all in violation of the Federal civil rights laws.

73. That conspiracy resulted in injury to the plaintiff's right:

a) to be free from discrimination based upon his being a Christian Africanic person or a member of the D.C. Bar

accused of foreign disciplinary misconduct instead of domestic disciplinary misconduct,

b) to enjoyment of his due process right to notice and opportunity to be heard during disciplinary investigations and prior to the deprivation of is license to practice law,

c) to be secure from unreasonable search and seizure by the D.C. bar officials of his bank records, and

d) not to suffer the imposition of a penalty grossly disproportionate to the misconduct expressly stated in the D.C. Bar Rules of Professional Conduct and proved according to the common law as to *all* elements of the offense(s) charged.

A. JURISDICTION

74. That the jurisdiction of the district court lies in one or more of the following provisions of the United States Code, *viz*: §28:1331 (Federal question), §28:1343(a) (3) and (a)(4) [deprivation of civil rights and equitable relief], §42:1985(2) (civil conspiracy), and §§28:2201 and 28:2202 (declaratory judgments).

B. STATEMENT OF CLAIMS

75. That plaintiff Richardson's claims arise out of investigatory and adjudicatory activities by the DCCA through its agencies and/or employees of the defendants D.C. Bar Counsel's Office, Board, and the D.C. Bar. They occurred in or arose out of reciprocal disciplinary, civil and criminal contempt matters, and involve illegal and wrongful conduct by the DCCA operatives in violation of Federal constitutional and civil rights laws, D.C. statutory, common, criminal, ethical laws, rules or regulations by the defendants and their co-conspirators. Events underlying these claims occurred between 1992 to date.

76. Civil rights violations of a due process and equal protection nature arise out of the nondisclosure and concealment of illegal disciplinary investigations and procedures conducted by bar prosecutors and the Board. Those investigations and procedures involved the denial of certain due process and equal protection rights mandated by statute and secured under various D.C. Bar rules to notice and right to respond by the plaintiff, an attorney subject to the limited, but exclusive, jurisdiction of the DCCA over the practice of law in the District of Columbia, when an investigation is commenced. And processed by bar

prosecutors pursuant to Board and D.C. Bar Rules based upon allegations of an attorney's misconduct.

77. In plaintiff Richardson's situation, allegations of misconduct were made against him in 1992 by a claimant (a Florida attorney, Dr. David P. Rankin, Esq.) that he charged an unreasonable fee to a private trust settled and administered in Florida and otherwise breached his fiduciary duties as a trustee. These 1992 allegations were determined by defendant Branda not to constitute probable cause for opening ('docketing') a bar disciplinary investigation and was assigned a case ["BD"=Bar Docket] number closed without informing the Richardson that the allegations existed, i.e. *Richardson/Rankin,* BD No. 511-92.

78. However, between 1992 and 1994 defendant Branda continued to collect materials in support of the 1992 allegations *(Richardson/Rankin)* of this 'undocketed' complaint. Then in 1994, defendant Branda commenced a 'docketed' investigation *(Richardson/Bar Counsel,* BD No. 180-94) based on the 1992 allegations *(Richardson/Rankin)* of Richardson's misconduct of charging an unreasonable fee. The 1994 'docketed' investigation *(Richardson/Bar Counsel)* was based *solely* upon a resignation order of the Florida Supreme Court granting Richardson's petition to resign the Florida Bar while disciplinary investigations were pending.

79. The Florida resignation proceedings arose out of the same allegations filed by the same complainant (Dr. Rankin) as those filed in the 1992 'undocketed' investigation *(Richardson/Rankin)* with the D.C. Office of Bar Counsel. In other words, both the Florida and D.C. disciplinary complaints of misconduct were based upon the same allegations and documentary evidence and submitted by the same complainant, Florida attorney Rankin, as a part of Atty. Rankin's fee refund collection litigation strategy.

80. Then, in cooperation with and after the approval of an unidentified member of the Board assigned to oversee the 'undocketed' investigation, i.e. its 'Contact Member,' merged the 1992 'undocketed' investigation *(Richardson/Rankin)* with a new 1994 'docketed' investigation *(Richardson/Bar Counsel),* without notifying Richardson of this merger transaction either.

81. Thereafter, by a disciplinary letter of inquiry, Office of D.C. Bar Counsel by its prosecutor, defendant Branda,

notified the plaintiff of the 1994 'docketed' investigation *(Richardson/Bar Counsel)* without disclosing any reference [a] to the 1992 'undocketed' investigation *(Richardson/Rankin)* and its merger with the 1994 'docketed' investigation *(Richardson/Bar Counsel)*, nor [b] to the existence of documents collected between 1992 and 1994 from Florida attorney Rankin.

82. In 1995 after receiving the plaintiff's reply to the notice of misconduct charges in the 1994 'disciplinary letter of inquiry' based *solely* upon the August 1992 Florida resignation order, the defendant Office of D.C. Bar Counsel by chief prosecutor and Bar Counsel at the time, defendant Becker, notified the defendant DCCA that Richardson had resigned the Florida Bar while being investigated for the misconduct of charging an unreasonable fee and should be temporarily suspended under the D.C. Bar Rules without notice or opportunity to be heard *prior to* interim suspension.

83. This action was taken by bar prosecutors without informing Richardson nor the DCCA of the 1992 'undocketed' investigation *(Richardson/Rankin)* and its merger into the 1994 'docketed investigation' *(Richardson/Bar Counsel)* and with full knowledge that the alleged unreasonableness of the fee charged by Richardson to the Florida private trust was unproven and that resignation of a foreign bar membership while under disciplinary investigation in the foreign jurisdiction where there has been no finding or admission of misconduct on the part of the accused attorney (plaintiff in this instance), is not grounds of misconduct under the D.C. Bar Rules.

84. Under D.C. Bar Rules, in reciprocal disciplinary matters, interim suspension is effectuated through an *ex parte* judicial notice procedure without according an accused attorney notice or opportunity to be heard. This however, is not the case for domiciliary disciplinary matters, which are commenced by filing verified charges and the accused attorney is given an evidentiary hearing before revocation of the attorney license to practice law in non-emergency situations. Even in emergency situations, a domiciliary responding attorney retains certain proprietary rights in the attorney's license under an expedited hearing procedure.

85. Not until *February 2003* after the close of an evidentiary hearing before a hearing committee of the Board in Richardson's 2001 reinstatement proceedings did Richardson discover the existence of the 1992 'undocketed' investigation *(Richardson/Rankin)* and its merger with the 1994 'docketed' investigation *(Richardson/Bar Counsel)* that resulted in Richardson suffering interim suspensions in June 1995 and March 1996 and a final suspension in April 1997.

86. All three (3) suspensions were effectuated without notice and an evidentiary hearing as required by the due process clause of the 5th Amendment of the U.S. Constitution and D.C. Code provisions governing the regulation of the practice of law [§11-2503(b) (2001 ed.)], administrative procedures [§2-509 (2001 ed.)], and evidentiary procedures [§14-101(a) (2001 ed.)].

87. Discovery of the contents of records of the 1992-1994 'undocketed' investigation *(Richardson/Rankin)* and the bar prosecutors and Board member(s) involved have *never* been provided Richardson although demanded. Nor has the defendant DCCA allowed an evidentiary hearing on the due process, equal protection, and other constitutional claims under the circumstances made by Richardson in any disciplinary, reinstatement, or other post-judgment (*coram nobis*) proceeding.

88. In addition to the prosecutorial misconduct of a criminal, unethical and tortious (constitutional or local common law based) nature, involving the obstruction of justice that resulted from [a] the nondisclosure and concealment of the 1992-1994 'undocketed' investigation *(Richardson/Rankin)* and [b] the denial of notice and an evidentiary hearing *prior to* the June 1995 and March 1996 interim and the April 1997 final suspension, the plaintiff suffered [c] the imposition of disproportionate suspension penalties and [d] was convicted of civil and criminal contempt based upon illegally seized bank records and subpoenas issued by bar prosecutors without prior judicial review.

89. The disproportionate suspensions involved [a] a period of 1.83 [one and 83/100] years (June 1995 - April 1997=1 yr., 10 mos.) for noncompliance with a D.C. Bar Rule requiring a suspended attorney to file a registration statement, and [b] for resignation of the Florida Bar/unreasonable fee

charge for a period of seven plus (7+ years) (April 1997 to date and continuing). A total disciplinary sanction of eleven plus (11+) years and counting. The penalty for noncompliance was also effectuated without notice and opportunity to be heard.

90. Because the June 1995 and March 1996 interim suspension orders and the April 1997 final order of suspension were rendered in violation of the plaintiff's due process and equal protection rights to notice and opportunity for an evidentiary hearing under [a] the due process clause of the 5th Amendment and [b] the D.C. statutes and rules governing bar disciplinary proceedings specifically, [c] administrative forfeiture proceedings generally, and [d] evidentiary requirements in judicial and administrative proceedings, those disciplinary orders and judgment cannot be given full faith and credit in these Federal court proceedings.

91. Denial of equal protection is predicated upon not only the unequal treatment that plaintiff Richardson received as an attorney accused of misconduct in a foreign jurisdiction *vis-à-vis* a similarly situated attorney accursed of misconduct in the District of Columbia, but also upon profiling and selective investigations involving defendants Becker, Branda, DeSilva, Shiskevish, and Shipp based upon the fact that plaintiff Richardson is an well-known Africanic person, a sole practitioner, and a openly devout Christian and the excessive penalties sought and obtained against plaintiff -- eleven plus (11+) years of law license suspension and probation for two years as a convicted criminal -- that non-Africanic persons, persons of other religious persuasions and in large law firms have never suffered for similar misconduct and with similar professional credentials and notoriety.

C. CONCLUSION AND RELIEF REQUESTED

(JURY DEMAND)

92. That a trial by jury of twelve (12) persons on all issues of fact is hereby demanded.

(DECLARATORY AND INJUNCTIVE RELIEF)

93. That the following declarations be made by the district court:

(a) That there exists a justiciable controversy between the plaintiff and defendants;

(b) That judgment should be entered against the defendants, jointly or severally, individually or in their representative capacities as their liabilities may appear, for violation of plaintiff civil rights under the Constitution and laws of the United States as claimed above;
(c) That certain cited D.C. statutes or Bar Rules, including, but limited to-- D.C. Code §11-2501 et seq. and D.C. Bar Rules XI, §§ 11(d), 14(f), and 18(a), whether legislatively or judicially determined, governing reciprocal disciplinary proceedings, subpoena of an accused bank records, and enhancement of disciplinary suspensions for failure to register when suspended, be declared unconstitutional on their faces or as applied;
(d) And for such further declarations as the court deems necessary and proper.

94. That the following equitable and injunctive relief be granted:
(a) Enjoin the DCCA from denying Richardson reinstatement as an active member of the D.C. Bar *unless* the DCCA provides an opportunity for Richardson to challenge the constitutionality of its June 1995 and March 1996 interim suspension orders and the April 1997 final suspension judgment on denial due process or other fair trial procedures grounds; and
(b) Enjoin the DCCA from enforcing any D.C. statutes, Bar or Board Rules, whether legislatively or judicially determined, governing reciprocal disciplinary proceedings, subpoena of an accused bank records, and enhancement of disciplinary suspensions for failure to register when suspended; and
(c) Enjoin any court or administrative agency elsewhere, whether State or Federal from giving full faith and credit to a DCCA judgment or order *in re* plaintiff Richardson found to have been rendered in spite of the due process violations (denial of notice and hearing in reciprocal disciplinary matter, imposition of suspension enhancement without notice or hearing), 4th Amendment unreasonable search and seizure prohibition (nonconsensual exchange of information between D.C. Bar Counsel and any other administrative division of the DCCA, its Board and the D.C. Bar), and the 8th Amendment requirement of proportional sanctions.

(COMPENSATORY AND PUNATIVE DAMAGES)

95. Award plaintiff special, exemplary, or punitive damages and payment of attorney's fees and litigation costs to the fullest extent allowed by law.

V. VERIFICATION AND EXECUTION

96. This certifies under penalty of law that the foregoing facts are true to the best of the undersigned complainant's (T. Carlton Richardson) knowledge, information and belief. Respectfully submitted on this 28th day of September 2006.

/s/ T. Carlton Richardson
T. CARLTON RICHARDSON
Plaintiff *Pro Se*
1505 Pennsylvania Avenue, SE
Washington, DC 20003-3117
202/546-3505

SCHEDULE OF APPENDIX	
A	Memorandum order dismissing petition (July 11, 2001, Robertson, J.)
B	Memorandum order denying motion to reconsider dismissal (July 31, 2001, Robertson, J.)

MEMORANDUM, *T. Carlton Richardson v. Court Services and Offender Supervision Agency for D.C. and D.C. Court of Appeals*, CA No. 99-0657 (July 11, 2001, Robertson, J.)

[1-1] On June 27, 1995 petitioner, T. Carlton Richardson, was suspended from the practice of law in the District of Columbia after he resigned from the Florida Bar because of pending disciplinary proceedings in Florida. See *In re Richardson*, No. 95-BG-639 (D.C. June 27, 1995). [1-2] On March 12, 1996, he was again suspended, this time as reciprocal discipline for his disbarment by the United States Court of Appeals for the District of Columbia. [1-3] Petitioner challenged both suspensions in two suits filed in this court. [1-4] Both were dismissed on jurisdictional grounds, and both dismissals were affirmed. See *T. Carlton Richardson v. District of Columbia Court of Appeals*, 83 F.3d 1513 (D.C. Cir. 1996) [affirming in *T. Carlton Richardson v. District*

of Columbia Court of Appeals, No. 95-CV-1272 (D.D.C. Aug. 1, 1995)]; *Richardson v. District of Columbia Court of Appeals*, No. 97-7085, 1997 WL 811754 (D.C. Cir. 1997) [affirming decision in Richardson v. District of Columbia Court of Appeals, 962 F. Supp. 1 (D.D.C. 1997)], cert. denied 523 U.S. 1077 (1998). [1-5] On April 17, 1997, the District of Columbia Court of Appeals imposed final discipline by suspending petitioner from practice for three years, with reinstatement to be conditioned on proof of fitness. See *In re Richardson*, 692 A.2d 427, 428 (D.C. 1997), cert. denied, 522 U.S. 1118 (1998).

[2-1] In mid-1996, D.C. Bar Counsel opened an investigation into whether petitioner violated his 1995 interim suspension and issued a number of subpoenas for documents. [2-2] Petitioner contested the subpoenas and produced the documents only after being held in civil contempt. [2-3] Following Bar Counsel's investigation, the D.C. Court of Appeals ordered petitioner to show cause why he should not be held in contempt of the suspension order. [2-4] D.C. Superior Court Judge Retchin was designated as a judge of the D.C. Court of Appeals and assigned to adjudicate the contempt. [2-5] On March 6, 1998, she found petitioner guilty of criminal contempt for failing to comply with the June 27, 1995, interim suspension order. [2-6] The sentence was 120 days imprisonment, suspended, and

[02-11]

three years probation conditioned on payment of $50 court costs a $200 fine and conviction. [2-7] Petitioner appealed from that conviction. [2-8] The criminal contempt conviction was affirmed on appeal. *In re Richardson*, 759 A.2d 649 (D.C. 2000).

[3-1] On March 17, 1999, a year after his contempt conviction, petitioner brought the first (No. 99-657) of the two petitions for habeas corpus that are now before this court, contesting the validity of his criminal contempt conviction and of the underlying interim suspension. [3-2] Judge Sporkin dismissed that petition as premature, on August 18, 1999, because the D.C. Court of Appeals had not yet ruled on petitioner's direct appeal. [3-3] On September 21, 2000, the D.C. Court of Appeals affirmed petitioner's contempt conviction. [3-4] The 1999 dismissal of first habeas petitioner was then

vacated, but petitioner filed a second petition (No. 00-2860) which made the same allegations as the first. [3-5] The two essentially identical petitioners [*sic*] were consolidated by order of the court and are now ripe for decision. [3-6] The consolidated petition [sic] will be denied.

Interim Suspension Order and Subsequent Investigation

[4-1] Petitioner first challenges the civil proceedings that rise to the criminal contempt that gave rise to the criminal contempt proceedings. [4-2] His petitions

[03-11]

are his third (or his third and fourth) challenge to the June 27, 1995, interim suspension order and his second (or second and third) challenge to the D.C. Court of Appeals civil contempt proceedings relating to enforcement of the subpoenas. [4-3] Although his previous challenges to all of these rulings were dismissed because of the jurisdictional bar of the *Rooker-Feldman* doctrine -- see *Richardson v. District of Columbia Court of Appeals*, 83 F.3d 1513 (D.C. Cir., 1996); *Richardson v. District of Columbia Court of Appeals*, No. 97-7085, 1997 WL 811754 (D.C. Cir. Dec. 9, 1997); *Richardson v. District of Columbia Court of Appeals*, No. 97-7242, 1998 WL 720683 (D.C. Cir. Sept. 16, 1998) -- petitioner now asserts that review is available through his habeas petitions. [4-4] He is incorrect.

[5-1] The writ of habeas corpus shall not extend to a prisoner unless "[h]e is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c) (3); see 28 U.S.C. § 2254. [5-2] Civil orders and penalties do not satisfy this requirement because they do not "significantly restrain petitioner's liberty to do those things which in this country free men are entitled to do." *Jones v. Cunningham*, 371 U.S. 236, *243* (1963); see *Waldon v. Cowley*, 880 F.2d 291, 292 (10th Cir. 1989) (petitioner who "cannot engage in

[04-11]

certain businesses or obtain any licensing of certain businesses" because of his prior conviction not presently restrained); *Ginsberg v. Abrams*, 702 F.2d 48, 49 (2d Cir. 1983) (revocation of license to practice law and disqualification as real estate broker and insurance agent not "custody").

[6-1] Nor can the interim suspension and civil contempt proceedings be challenged by virtue of their status as the orders underlying or giving rise the criminal contempt conviction. [6-2] Orders underlying civil and criminal contempt proceedings are not addressable by means of a habeas petition except to challenge the jurisdiction of the court that issued the underlying order. See *Craig v. Hecht*, 263 U.S. 255, *277* (1923) (habeas proceedings cannot be used to review, as on appeal, the court action that has led to the commitment order); *Watkins v. Rives*, 125 F.2d 33, *41* (D.C. Cir. 1941) ("[H]abeas corpus may properly be used to challenge jurisdiction of a court, [but] cannot be used to review inconsistencies or even errors of law committed by a court of competent jurisdiction"). [6-3] This court lacks jurisdiction to review decisions of the D.C. Court of Appeals imposing interim suspension orders and upholding civil contempt proceedings.

Criminal Contempt Proceedings

[05-11]

[7-1] The standard for adjudicating petitioner's several constitutional claims regarding his criminal contempt conviction is established by statute. [7-2] Under 28 U.S.C. §2254(a), a petition for writ of habeas corpus will not be granted to a state prisoner challenging his state court conviction with respect to any claim adjudicated on the merits in state court unless the adjudication "resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law," or was "based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." [7-3] A state court decision is contrary to the Supreme Court's clearly established precedent, "if the state court applies a rule that contradicts the governing law." *Williams v. Taylor*, 529 U.S. 362, *405* (2000). [7-4] Under the "unreasonable application" inquiry, the court should ask whether the state court's application of clearly established federal law was objectively unreasonable." Id. at 409.

[8-1] Petitioner first argues that his conviction violated due process because he was convicted by a single judge of the D.C. Court of Appeals, instead of a three-judge panel. [8-2] The governing law, D.C. Code § 11-741(a), confers authority upon a single judge to "punish for disobedience of an order" and the use

[06-11]

of a single judge was expressly approved by the D.C. Court of Appeals. See *Richardson*, 759 A.2d at 651. [8-3] Petitioner cites no authority for the proposition that the use of a single judge was contrary to Federal law, and this court can find none.

[9-1] Petitioner next asserts that his due process rights were violated because improper service of the court's show cause order and Bar Counsel's motion for an order to show cause deprived the court of personal jurisdiction over him. [9-2] The D.C. Court of Appeals ruled, not only that petitioner was properly served in the contempt proceeding under D.C. App. R. 36(b) and 25(c), but also that petitioner was subject to the jurisdiction of the court already under D.C. Bar Rule XI, §1, which provides for personal jurisdiction over a member of the Bar suspended by the court. *In re Richardson*, 759 A.2d at 651-52. [9-3] The D.C. Court of Appeals' assertion of personal jurisdiction did not violate petitioner's due process rights.

[10-1] Petitioner's next due process argument is that documents were improperly withheld from him in his contempt trial. [10-2] Due process requires the disclosure by the prosecution of evidence that is both favorable to the defendant and material either to guilt or punishment. *Brady v. Maryland*, 373 U.S. 83, 87 (1963). [10-3] The only document to which this *Brady* claim relates

[07-11]

is a transmittal note from the D.C. Bar to Bar Counsel attaching a check drawn on a trust account that petitioner used to pay for a CLE seminar. [10-4] It is not clear how this note -- "Gene - Here's a copy of the check. Ironically the course is 'Ethics in Billing.' Lalla" -- is material to either guilt or punishment. [10-5] Nor is it clear that the note was withheld from petitioner, since, during the earlier civil contempt proceedings, petitioner appears to have attached it to his Response to the Order to Show Cause. [10-6] Any delay in petitioner's receipt of this material during the discovery phase of his criminal contempt proceeding was not a due process violation.

[11-1] Petitioner next argues that he was unconstitutionally denied a jury trial on the charge of contempt. [11-2] The Sixth Amendment right to trial by jury applies to a serious or nonpetty offense, usually defined as an offense either

carrying a maximum authorized prison term of greater than six months, or, if no maximum penalty is authorized, one for which the penalty actually imposed is greater than six months. *Frank v. United States*, 395 U.S. 147, *151-[1]52* (1969); see also *Brookens v. Committee on Unauthorized Practice of Law*, 538 A.2d 1120, *1122-[11]23* (D.C. 1998). [11-3] Petitioner was sentenced under the D.C. Court of Appeals contempt statute, D.C. Code § 11-741(a), which does not

[08-11]

authorize a maximum penalty. [11-4] Defendant was not sentenced to a term of imprisonment greater than six months, nor were the other conditions imposed sufficient to transform this offense from a petty offense to a serious offense. [11-5] A jury trial was accordingly not required. See *Blanton v. City of North Las Vegas, Nev.*, 489 U.S. 538, *542* (1989) (defendant entitled to a jury trial when sentenced to less than six months imprisonment "only if he can demonstrate that any additional statutory penalties, viewed in conjunction with the maximum authorized period of incarceration, are so severe that they clearly reflect a legislative determination that the offense in question is a 'serious' one"); *Frank*, 395 U.S. at 151 (finding that a six month sentence, suspended, and three years probation did not require a jury trial and noting that a five year term of probation would not convert a petty offense into a serious one).[75]

[09-11]

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[75] *[n.1-1]* Petitioner argues that his sentence was illegal because the court both sentenced him to six months imprisonment (suspended) and ordered him to pay a fine of $200, and because the court sentenced him to a term of probation greater than six months. *[n.1-2]* Not only does it appears from the face of the statute, D.C. Code § 11-741, that there is no prohibition against the imposition of a fine, imprisonment, and a three year period of probation, but the statute incorporates the powers conferred by 18 U.S.C. § 402, which specifically authorizes imposition of a fine and imprisonment. See also *Frank*, 395 U.S. at 151 (approving a term of probation for a federal criminal contempt conviction). *[n.1-3]* Moreover, petitioner cites no authority for the proposition that this sentence violated the Eighth Amendment and this Court finds that it does not. See, e.g., *United States v. Gracia*, 755 F.2d 1984 (2d Cir. 1985) (finding excessive a nine year sentence and noting that courts generally find sentences greater than five years for contempt to be excessive).

[12-1] Petitioner also complains that the thirty months of elapsed time between filing his appeal to the D.C. Court of Appeals and the decision, denied him an adequate right to appeal or to be heard in a timely fashion. [12-2] He cites no authority for this proposition, however, nor does he make any showing of prejudice, and the argument must be rejected.

[13-1] Petitioner's challenge to the use of subpoenaed bank records in the criminal contempt proceeding also fails. [13-2] His claim of illegal seizure in violation of the Fourth Amendment is not reviewable by habeas petition because he had the opportunity to litigate this issue below. See *Stone v. Powell*, 428 U.S. 465, *481-[4]82* (1976). [13-3] In any event, there is no expectation of privacy in copies of checks and deposit slips retained by a bank, *United States v. Payner*, 447 U.S. 727, *732* (1980), and no Fifth Amendment protection from revelations within properly subpoenaed bank records, *Baltimore City Dep't of Soc. Servs. v. Bouknight*, 493 U.S. 549, *555* (1990).

[14-1] Because petitioner's criminal contempt conviction and

[10-11]

the resulting sentence neither contradict governing law nor involve an unreasonable application of Federal law, he is not entitled to relief.

[15-1] An appropriate order accompanies this memorandum.

/s/ James Robertson
JAMES ROBERTSON
United States District Judge

Date: *July 10, 2001*

[11-11]

MEMORANDUM ORDER [*ON MOTION TO RECONSIDER*], *T. Carlton Richardson v. Court Services and Offender Supervision Agency for D.C. and D.C. Court of Appeals*, CA No. 99-0657 (July 31, 2001, Robertson, J.)

[1-1] Petitioner's motion to reconsider this court's Order and Memorandum is denied for the reasons set forth below.

[2-1] A motion to reconsider should be granted only when the court "finds that there is an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." *Firestone v. Firestone*, 76 F.3d 1205, *1208* (D.C. Cir. 1996). [2-2] Petitioner's reassertion of arguments previously considered and rejected by the court do not merit granting the motion to reconsider. [2-3] This court has already found that it lacks jurisdiction to review the interim suspension order and subsequent investigation which gave rise to the criminal contempt proceedings. [2-4] As for the criminal contempt proceedings, this court held that the D.C. Court of Appeals' assertion of personal jurisdiction and the subsequent proceedings and sentence did not violate petitioner's due process

[01-02]

rights or the double jeopardy provision of the Fifth Amendment, see *In re Asher*, 772 A.2d 1161, *1166-[11]67* (D.C. 2001). [2-5] Nothing in petitioner's motion warrants reconsideration of these holdings.

[3-1] Nor do petitioner's newly raised claims merit reconsideration. [3-2] No reviewable Fourth Amendment violation accrues from alleged "information sharing" between the D.C. Bar and the Office of Bar Counsel. [3-3] This court did not apply the standard for dismissal under Fed. R. Civ. P. 12(b), but rather the standard set forth in 28 U.S.C. §2254. [3-4] And a hearing was not required in this case as the record was adequately developed below and there were no disputed issues of material fact. [3-4] Accordingly, this court declines to reconsider its earlier ruling.

/s/ James Robertson
JAMES ROBERTSON
United States District Judge

Date: *August 1, 2001*

[02-02]

APPENDIX "B"

U.S. District Court, D.C.	CA No. 06-1665 (RJL)
T. Carlton Richardson, *Plaintiff*	District of Columbia, et al., *Defendants*
MEMORANDUM OPINION (July 8, 2007) [#10, #13, #23, #25]	Filed: 11 Jul 2007

[01/01]

Plaintiff[,] T. Carlton Richardson, proceeding pro se, filed this action on September 28, 2006 against the D.C. Board on Professional Responsibility, Wallace Eugene Shipp, Jr., Leonard H. Becker, Catherine Kello, Lalla Shishkevish, Elizabeth J. Branda, Donna M. DeSilva, the District of Columbia Court of Appeals, the Court Services and Offender Supervision Agency ("CSOSA"), and the Court Services & Supervision Agency for *(sic)* [and] the District of Columbia to challenge his suspension from the practice of law by the District of Columbia Court of Appeals. Before the Court are defendants' motions to dismiss. For the following reasons, this Court finds that plaintiff has failed to set forth any basis for overturning his suspension, and, accordingly, the Court will GRANT defendants' motions to dismiss.

BACKGROUND

This case is the latest in a long series of cases filed by plaintiff related to his suspension from the practice of law in the District of Columbia. In 1997, the plaintiff was

[01/02]

suspended from the practice of law for three years by the D.C. Board of Professional Responsibility as reciprocal discipline for his actions while a member of the Florida Bar. *In re Richardson*, 692 A.2d 427 (D.C. 1997). Subsequently, plaintiff was convicted of criminal contempt for violating this suspension. *In re Richardson*, 759 A.2d 649 (D.C. 2000).

Plaintiff's previous challenges in this District Court to the constitutionality of his suspension were dismissed for lack of jurisdiction under the *Rooker-Feldman* doctrine, which prohibits federal district courts from reviewing judicial decisions of state and local courts, as well as all claims intertwined with that

judicial action. See *Richardson v. D.C. Court of Appeals*, No. 95-1272, slip op. (D.D.C. 1996) *("Richardson I")* (Hogan, J.) (discussing *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman,* 460 U.S. 462 (1983)), aff'd, *Richardson v. D.C. Court of Appeals,* 83 F.3d 1513 (D.C. Cir. 1996); *Richardson v. D.C. Court of Appeals,* 962 F. Supp. 1 (D.D.C 1997) (Sporkin, J.) *("Richardson II")*; *Richardson v. D. C. Court of Appeals,* No. 04-0101, slip op. (D.D.C. Mar. 31, 2004) (Huvelle, J.) *("Richardson III"); Richardson v. Dist. of Columbia*, No. 05-0210, slip op. (D.D.C. Mar. 29, 2005) (Huvelle, J.) *("Richardson IV").* [3-2] Likewise, Judge Robertson of this Court dismissed plaintiff's previous petition for habeas corpus).[76] *Richardson v. Court Svs. and Offender Supervision Agency for D.C.*, No. 99-0657, slip op. (D.D.C. July 10, 2001) *("Richardson-Habeas I").*

[02/03]

ANALYSIS

I. Habeas Corpus

In Count One of his complaint, plaintiff seeks reinstatement of his prior habeas petition based upon "newly discovered evidence of prosecutorial misconduct, obstruction of justice and fraud" pursuant to Federal Rule of Civil Procedure 60(b)(6).[77] (Compl. ¶¶ 6-7.) This Rule permits a court to reopen a proceeding for "any other reason justifying relief from the operation of the judgment," Fed. R, Civ. P. 60(b)(6); however, it is well-established that Rule 60(b)(6) "should be only sparingly used." *Kramer v. Gates,* 481 F.3d 788, 791-[7]92 (D.C. Cir. 2007) (quoting *Ackerman v. United States*, 340 U.S. 193, 199 (1950)). Moreover, Rule 60(b)(6) motions may be granted "only in 'extraordinary circumstances,'" *id.,* and only if "made within a

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[76] Judge Robertson found that: (1) "Orders underlying civil and criminal contempt proceedings are not addressable by means of a habeas petition except to challenge jurisdiction," *Richardson Habeas I,* slip op. at 5, and; (2) "the criminal contempt conviction and the resulting sentence neither contradict governing law nor involve an unreasonable application of Federal law," Id, at 10-11.

[77] Notably, pursuant to Rule 60(b)(3), a party can request relief from judgment based on "fraud, misrepresentation, or other misconduct of an adverse party," but must do so "not more than one year after judgment." Because the original habeas petition was dismissed in 2001, see *Richardson-Habeas I,* plaintiff's request for relief under this provision is untimely.

reasonable time." Fed. R. Civ. P. 60(b). [4-5] Plaintiff has failed to satisfy either requirement.

Here, plaintiff has not asserted sufficiently "extraordinary circumstances" to justify relief from the dismissal of his habeas petition. Specifically, plaintiff claims that various defendants committed fraud by not revealing the existence of a report related to a 1992 investigation into plaintiff's conduct as a member of the Florida Bar in response to allegations that plaintiff charged clients an unreasonable fee for his services (the

[03/04]

"*Richardson/Rankin* report"), and that the fraud was "so pervasive" as to justify a reopening of the habeas corpus proceedings. (Compl. ¶¶ 12-49). Plaintiff claims that he was not made aware of this investigation despite requests for all documents, and that had the investigation been disclosed to him, it "would have affected the unfavorable trial court and appellate outcomes of [the contempt proceeding]." (Compl. ¶¶ 33-34). Yet, as plaintiff's habeas petition challenges his criminal contempt conviction for violating the order suspending his license to practice law in the District of Columbia, *In re Richardson*, 759 A.2d at 654, plaintiff does not claim (nor could he) that the *Richardson/Rankin* report is relevant to this criminal conviction. Thus, plaintiff has not asserted sufficiently "extraordinary circumstances."

Moreover, as plaintiff claims that he learned about the *Richardson/Rankin* report in 2003, (Compl. ¶ 19), and, since that time, plaintiff has brought both his third and fourth challenges to the validity of the underlying suspension without seeking reinstatement of his habeas petition, see *Richardson III, Richardson IV*, plaintiff's Rule 60(b)(6) motion was not brought within a "reasonable time."[78] Accordingly, plaintiffs request for relief pursuant to Rule 60(b)(6) motion is DISMISSED.

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[78] Further, even if plaintiff's request for relief were interpreted to "attack the federal court's previous resolution of a claim on the merits," *Gonzalez v. Crosby*, 545 U.S. 524, 531-[5]32 (2005), it would qualify as a "second or successive" application and, therefore, would be barred by 28 U.S.C. § 2244(b)(1). *Gonzalez*, 545 U.S. at 531-[5]32; 28 U.S.C. § 2244(b)(1) (requiring that "a claim presented in a second or successive habeas corpus application... [that] was presented in a prior application ..., be dismissed").

II. Civil Rights Claims

In Count Two of his complaint, plaintiff contends that his civil rights were violated
when he was suspended from the District of Columbia bar, and that these violations have

[03/04]

continued throughout the proceedings in his subsequently filed civil litigation. (Compl. ¶¶ 71-91.) [7-2] For the reasons set forth below, this Court also GRANTS defendants' motions to dismiss plaintiff's civil fights claims.

Pursuant to the doctrine of collateral estoppel, "the judgment in [a] prior suit precludes relitigation of issues actually litigated and necessary to the outcome of the first action." *Parklane Hosiery Co. v. Shore,* 439 U.S. 322, 327 n.5 (1979); *Yamaha Corp. of Am. v. United States,* 961 F.2d 245, 254 (D.C. Cir. 1992).[79] In our Circuit, an issue is precluded if: (1) the same issue was previously litigated by the parties;[80] (2) the issue was necessarily determined by a court of competent jurisdiction and; (3) preclusion in the second case will not be unfair to the party bound by the first judgment. *Yamaha Corp. of Am.*, 961 F.2d at 254.

Here, the issue of whether the district court has jurisdiction to review the state court decision has previously been litigated four times, see *Richardson I; Richardson II, Richardson III; Richardson IV*, and, as to each of these challenges, the constitutionality of the suspensions were dismissed pursuant to the *Rooker-Feldman doctrine* ("under which

[04/05]

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[79] Although Federal Rule of Civil Procedure 41(b) provides that a dismissal for lack of jurisdiction will not operate as "an adjudication on the merits," it will, however, preclude relitigation of the precise issues of jurisdiction that lead to the dismissal in the previous case. *GAF Corp. v. United States*, 818 F.2d 901,913 (D.C. Cir. 1987).

[80] The fact that the plaintiff added new defendants does not preclude them from asserting issue preclusion. See *McLaughlin v. Bradlee*, 803 F.2d 1197, 1204-05 (D.C. Cir. 1986) ("Invocation of the doctrine is no longer restricted to those who were parties to the first litigation or their privies, for it has come to be widely accepted that usually little good and much harm can come from allowing a determined plaintiff to retry the same issues in exhaustive fashion against successive defendants.").

federal district courts lack jurisdiction to review judicial decisions by state and District of Columbia courts," *Richardson v. D.C. Court of Appeals,* 83 F.3d at 1514[81]). Thus, the issue of jurisdiction necessarily has been determined by the appropriate courts. Finally, for a plaintiff who has brought what is essentially the same case at least four times, had the case dismissed with prejudice, *Richardson III,* and has been warned that "he would do well to think hard before filing another suit such as this one," *Richardson II,* slip op. at 2, no unfairness will result from the application of collateral estoppel to bar his claims, and, accordingly, defendants' motions to dismiss plaintiff's civil rights claims are GRANTED.[82]

CONCLUSION

For all of the foregoing reasons, this Court GRANTS defendants' motions to dismiss plaintiff's claims. [10-2] An appropriate Order consistent with this ruling accompanies this Memorandum Opinion.

/s/ Richard J. Leon
RICHARD J. LEON
United States District Judge

[81] For a more detailed explanation of the *Rooker-Feldman* doctrine, see *Richardson III*, slip op. at 2 n.2.

[82] Finally, the Court notes that the claims are barred by the applicable three year statute of limitations for civil rights violations. D.C. Code § 12-301(8); see also *Banks v. Chesapeake & Potomac Tel. Co.*, 802 F.2d 1416, 1428 (D.C. Cir. 1986); *Osuchukwu v. Gallaudet Univ.*, 296 F. Supp. 2d 1, 1-2 (D.D.C. 2002). Plaintiff claims that he learned of the existence of the supposedly withheld *Richardson/Rankin* report in February 2003, which allegedly gave rise to his cause of action, (Compl. ¶ 19), but did not file suit until September 2006.

U.S. District Court, D.C.	CA No. 06-1665 (RJL)
T. Carlton Richardson, *Plaintiff*	District of Columbia, et al., *Defendants*
FINAL JUDGMENT (July 8, 2007) [#10, #13, #23, #25, #26]	Filed: 11 Jul 2007

For the reasons set forth in the Memorandum Opinion entered this date, it is hereby[:]

ORDERED that the motions to dismiss filed by defendants the D.C. Board on Professional Responsibility, Wallace Eugene Shipp, Jr., Leonard H. Becker, Catherine Kello, Lallah Shishkevish, Elizabeth J. Branda, Donna M. DeSilva, the District of Columbia Court of Appeals, the District of Columbia, and the Court Services & Supervision Agency for the District of Columbia are GRANTED, and it is further

ORDERED that Donna DeSilva's Motion for Sanctions Against the Defendant (sic) is DENIED, and it is further

ORDERED that this case is dismissed as to all defendants, and it is further

ORDERED that plaintiff and defendant Donna M. DeSilva appear on Thursday, August 16, 2007, at 2:30 pm for a hearing on defendant DeSilva's motion for sanctions.

SO ORDERED.

/s/ Richard J. Leon
RICHARD J. LEON
United States District Judge

APPENDIX "C"

U.S. District Court, D.C.	Civil Case No. 06-1665 (RJL)
T. Carlton Richardson, *Plaintiff*	District of Columbia, et al., *Defendants*
ORDER	Filed: 25 Sep 2007

Upon consideration of defendant Donna M. DeSilva's ("DeSilva") motion for sanctions against T. Carlton Richardson ("Richardson"), it is this *24th* day of September, 2007, hereby

ORDERED that DeSilva's motion is granted; and it is further ORDERED that pursuant to Federal Rule of Civil Procedure 11(c)(2), Richardson shall pay to the Clerk's Office of this Court monetary sanctions in the amount of $1500.00; and further ORDERED that Richardson shall pay to DeSilva the costs relating to her motion for sanctions in an amount to be determined by the Court after submission of a declaration itemizing the costs attendant to this motion by DeSilva or her counsel; and it is further ORDERED that Richardson is hereby enjoined form filing in the United States District Court for the District of Columbia, with first obtaining leave of this Court, any kind of lawsuit concerning the actions, circumstances, transactions, or other events against DeSilva or any related parties with respect to challenges to his state bar disciplinary proceedings, or any other related actions. In seeking leave to file, Richardson must certify under oath that the claim or claims he wishes to present are new claims never before raised and disposed of on the merits by any court. He must also certify under oath that the claim or claims are neither frivolous nor made in bad faith. Additionally, the motion for leave to file must be captioned "Application Pursuant to Court Order Seeking Leave to File." Finally, Richardson must either cite or affix a copy of this Order to that motion. Failure to strictly comply with the terms of this Order will be sufficient grounds for denying leave to file. SO ORDERED.

/s/ Richard J. Leon
RICHARD J. LEON
United States District Judge

APPENDIX "D"

U.S. Court of Appeals, D.C. Circuit	No. 07-7138
T. Carlton Richardson, *Appellant*	District of Columbia, et al., *Appellees*
ORDER	Entered: 13 Feb. 2008

BEFORE: Randolph, Tatel, and Griffith, Circuit Judges

Upon consideration of the motions for summary affirmance, the opposition thereto, and the reply; and the motion for sanctions, the opposition thereto, and the reply, it is ORDERED that the motions for summary affirmance be granted in part and denied in part. [1-2] The merits of the parties' positions are so clear as to warrant summary action. *See, Taxpayers Watchdog, Inc. v. Stanley,* 819 F.2d 294, *287* (D.C. Cir., 1987) (per curium).

The district court's orders entered July 11, 2007 and August 24, 2007 are affirmed. Appellant has not demonstrated "extraordinary circumstances" justifying the reinstatement, pursuant to Fed. R. Civ. P. 60(b)(6), of his previously dismissed habeas petition. *See, Gonzalez v. Crosby,* 545 U.S. 524, *538* (2005). Additionally, appellant's civil rights claims (appearing in count two of his complaint) are barred by collateral estoppel doctrine. *See, Martin v. Dep't of Justice,* 488 F.3d 446, *454* (D.C.Cir., 2007); *GAF Corp. v. United States*, 818 F.2d 901, *912* (D.C. Cir., 1987).

Moreover, the district court's order entered September 25, 2007 is summarily affirmed to the extent it requires appellant to pay $1,500 [Fifteen Hundred Dollars] to the Clerk of the district court and costs relating to appellee Donna DeSilva's district court sanctions motion. Those portions of the sanctions order do not constitute abuse of discretion. *See, Cooter & Gell v. Hartmax Corp.,* 496 U.S. 384, *405* (1990). The portion of the court's order entered September 25, 2007 that imposes a filing injunction is vacated and the case remanded because the injunction is not supported by "substantial findings as to the frivolous or harassing nature of the litigant's actions." *In re Powell,* 851 F.2d 427, *431* (D.C. Cir., 1988).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate therein until seven days after resolution of any timely filed petition for rehearing or petition for rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.[4-2] Per Curiam

APPENDIX "E"

U.S. Court of Appeals, D.C. Circuit	No. 07-7138
T. Carlton Richardson, *Appellant*	District of Columbia, et al., *Appellees*
ORDER	Entered: 20 May 2008

BEFORE: Randolph, Tatel, and Giffith, Circuit Judges

Upon consideration of the petition for rehearing filed March 12, 2008, it is ORDERED the petition be denied. Per Curiam.

U.S. Court of Appeals, D.C. Circuit	No. 07-7138
T. Carlton Richardson, *Appellant*	District of Columbia, et al., *Appellees*
ORDER	Entered: 20 May 2008

BEFORE: Sentelle, Chief Judge, and Ginsburg, Henderson, Randolph, Rogers,* Tatel, Garland,* Brown, Griffith, and Kavanaugh, Circuit Judges

Upon consideration of the petition for rehearing en banc or for a writ of mandamus, and the absence of a request by any member of the court for a vote on the petition for rehearing en banc, it is ORDERED that the petition for rehearing en banc be denied. It is FURTHER ORDERED that the petition for writ of mandamus be denied. Per Curiam.

*Circuit Judges Rogers and Garland did not participate in this matter.

APPENDIX "F"

U.S. District Court, D.C.	Civil Case No. 06-01665 (RJL)
T. Carlton Richardson, *Plaintiff*	District of Columbia, et al., *Defendants*
ORDER	Filed: 13 Aug 2008

Pursuant to the Mandate issued June 4, 2008 by the United States Court of Appeals for the District of Columbia [Dkt. #45] and pursuant to the September 25, 2007 Order of this Court [Dkt. #42], it is this *12th* day of August, 2008 hereby

ORDERED that pursuant to Federal Rule of Civil Procedure 11(c)(2), plaintiff T. Carlton Richardson ("Richardson") shall pay to the Clerk's Office of this Court monetary sanctions in the amount of $1500.00 within 30 days of the date of this Order; and it is further

ORDERED that Richardson shall pay to the defendant Donna M. DeSilva ("DeSilva") the costs relating to here motion for sanctions in the amount $3355 within 30 days of the date of this Order.

SO ORDERED.

/s/ Richard J. Leon
RICHARD J. LEON
United States District Judge

APPENDIX "G"

U.S. District Court, D.C.	CA No. 94-1272
T. Carlton Richardson, *Plaintiff*	District of Columbia Court of Appeals, et al, *Defendants*
ORDER	Filed: 01 Aug. 1995

For the reasons stated in the bench opinion issued at the hearing today, it is hereby ORDERED that the defendant's motion to dismiss is GRANTED and this case is dismissed. This Court is without jurisdiction to consider the plaintiff's individual disciplinary status and will abstain from addressing the

plaintiff's constitutional arguments. It is FURTHER ORDERED that the plaintiff's motion for preliminary injunction and for partial summary judgment are denied as moot. It FURTHER ORDERED that the motion of Bar Counsel to quash certain subpoenae ad testificandum is also denied as moot.

July *28*, 1995

/s/Thomas F. Hogan
Thomas F. Hogan
United States District
Judge

U.S. District Court, D.C.	CA No. 94-1272
T. Carlton Richardson, *Plaintiff*	District of Columbia Court of Appeals, et al, *Defendants*
BENCH OPINION *(Incorporated by Reference into Order of Dismissal, 08/01/1995)*	*Transcribed Excerpts of Proceeding Held on Friday, July 28, 1995*

The Court is going to issue an oral ruling at this time, which will be its opinion in the case, and because of the nature of this ruling, it won't be necessary for the Court to continue to hear witnesses and take evidence in this matter. I appreciate Mr. Richardson's concerns, and he's eloquent as always, having been known to the Court previously, the concern he has as to the right of process and fairness in this judicial system as well as anywhere else in this country's system is important, and that's hopefully what we're all about here, and I appreciate his view on that.

But I have before me the motion to dismiss, the motion for partial summary judgment by the plaintiff, and the motion for preliminary injunction by the plaintiff. It's apparent to this Court to discuss a TRO basically that the *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, a 1983 case, indicating that the Supreme Court has held that this is a judicial type proceeding, not an administrative proceeding that Mr. Richardson is subject to and that the claim as to the proceedings in the D.C. Court of Appeals is really only appeal at the [U.S.] Supreme Court and not to this Court even if it's not a final order. It seems to the Court that

Feldman teaches this Court that I do not have jurisdiction over the merits of the issues of his appeal because of the way the District of Columbia court has treated this resignation from Florida. And that as to the part of the case where he challenges the District of Columbia Court of Appeals' order in this case, it is not properly before this Court as to how they proceeded, properly or not, that that is beyond my jurisdiction under *Feldman*.

The next issue, then as to the constitutionality of the D.C. rule, particularly as complained of by Mr. Richardson. As I indicated in comments with government counsel, that rule does potentially, it seems to the Court, present some concerns. And that the Court originally at the TRO had some concern as to the constitutionality issue barring dismissal under *Feldman*, and I believe *Feldman* does specifically provide that our courts could consider constitutional issues, and even though it involves a local state court's bar disciplinary process.

But beyond that, the defendants have now with a supplemental pleading made a *Younger* [*vs. Harris*, U.S. 401:37, S.Ct. 91:746 (1971)] abstention argument, stating that disciplinary proceedings are still pending in the state court and I should abstain from making any rulings, including constitutional ones that affect those state court proceedings. That I should recognize the District, in essence, a state court system, and that the opportunities for Mr. Richardson to bring his claim in the ongoing proceeding is there; that there's an important state interest in these proceedings; and that he has an adequate chance to continue to raise these, as he had in the part, constitutional and federal issues, in those proceedings.

Obviously, the disciplinary proceedings regarding the plaintiff's license to practice in the District are clearly judicial. They're clearly local. There's a strong local interest in there and local control of the bar by the highest court of the District of Columbia, as opposed to the United States District Court. The District has represented, and I don't believe it's improper, that he has a right to file exemptions (*sic*= exceptions) to the recommendations, for this interim suspension as it's pending before the D.C. Court of Appeals,

an opportunity to be heard before the [B]oard [on Professional Responsibility] and before the D.C. Court of Appeals. He has and can continue to present challenges and briefs and oral arguments on the adequacy of the District of Columbia process [*sic:* and] constitutionality of these rules be heard whether or not there should be greater or lesser discipline or no discipline asserted against him in D.C.

I am concerned about Mr. Richardson's statements, one, on the irreparable injury. Obviously, he suffers by being even temporarily suspended and, two, his concerns over the length of time it takes to have this matter adjudicated through the proper forum in the District of Columbia. While he may eventually show he's been wronged in the District but not suspend (*sic)* him, and he gave his analogy -- it was a very challenging analogy of a Georgia issue -- I don't feel this Court has jurisdiction to right any such injuries as he's suffering at this time, even if it moves at a slow pace and he's deprived of his license for a period of time. Again, that matter, it seems to me, can be presented to the District of Columbia courts as an emergency matter.

I am cognizant of the *Younger* doctrine, and *(sic)* believe it should be followed in our Court, and we should respect the courts of the District of Columbia and their autonomy; and even in a case as this, as Mr. Richardson has said, where he is seeking only process and to be treated fairly, it seems to me that that is a matter for the District of Columbia court to decide and not this Court. Recognizing that the *Younger* doctrine does contain, as he's argued, certain requirements that the process is fair, where (*sic)* in the state court, it seems to me, that it is representing -- with the representations the defendants have provided to the Court as to how the process works and his opportunities to challenge the action even though he's temporarily suspended.

I will also note, and the facts of this case indicated *(sic)* to the Court, that this arose here by a temporary restraining order request that I denied, and I expedited a hearing so that there could be an issue before this Court on the merits as soon as possible, and I consolidated the P.I. [*sic:* preliminary injunction] and the motions hearing today so that each side would have bring all the issues before the Court. My review

of the case indicates, as I have indicated, that Mr. Richardson had resigned from the Florida bar two years -three years ago now, I think, had been practicing thereafter here. His resignation was after a third investigation had begun and he had been sanctioned earlier twice, apparently, but the D.C. bar had not suspended him permanently at any time from the practice of laws and he was entitled to the same practice here, as he has a right to.

His determination now he seeks *(sic)* his due process and equal protection rights *(sic)* are violated by this action in D.C. proceeding *(sic)* on his resignation. The District of Columbia says their rules treat it as a suspension and they have a right to go forward with notice to him they claim they gave to consider that. I believe they have a right to have that, obviously, under their own rules, to consider how they should treat Mr. Richardson as long as it's done constitutionally.

But based upon *Feldman* as to the principal merits of the case and based upon *Younger* doctrine, finding that their *(sic)* action can be as well processed in the Superior Court *(sic)* than in the Court of Appeals of D.C., the Court is going to dismiss this case, finding no jurisdiction under *Feldman* as to the propriety of the actions already taken by the District of Columbia; and secondly, as to the constitutional claim, that can be protected by the plaintiff, and he can litigate that in the proper state forum. So, the case will be dismissed.

That will moot the motion to quash by [D.C.] [B]ar [C]ounsel for certain subpoenas and the motion for partial summary judgment by the plaintiff. I will issue an order to this effect in the event the plaintiff wants to take an appeal *(sic)* this ruling. ●